



# City Council Handbook & Guide

2015

**CITY COUNCIL HANDBOOK  
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## Section 1

Eau Claire  
City Council Members

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**EAU CLAIRE CITY COUNCIL MEMBERS**  
**April 2015 – April 2016**

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203 S. Farwell St.  
P. O. Box 5148  
Eau Claire, WI 54702



## Section 2

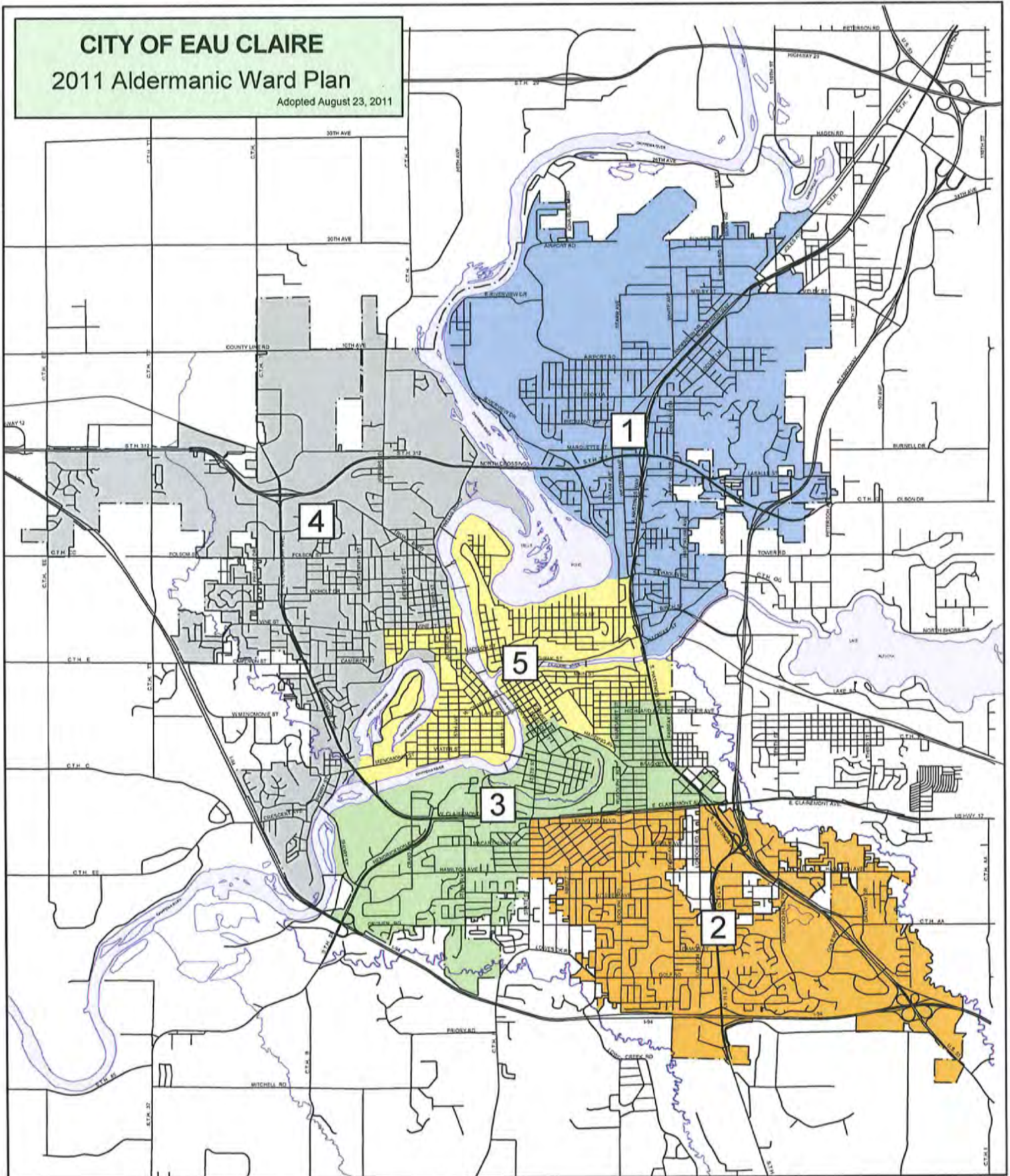
# Aldermanic District Maps

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# CITY OF EAU CLAIRE

## 2011 Aldermanic Ward Plan

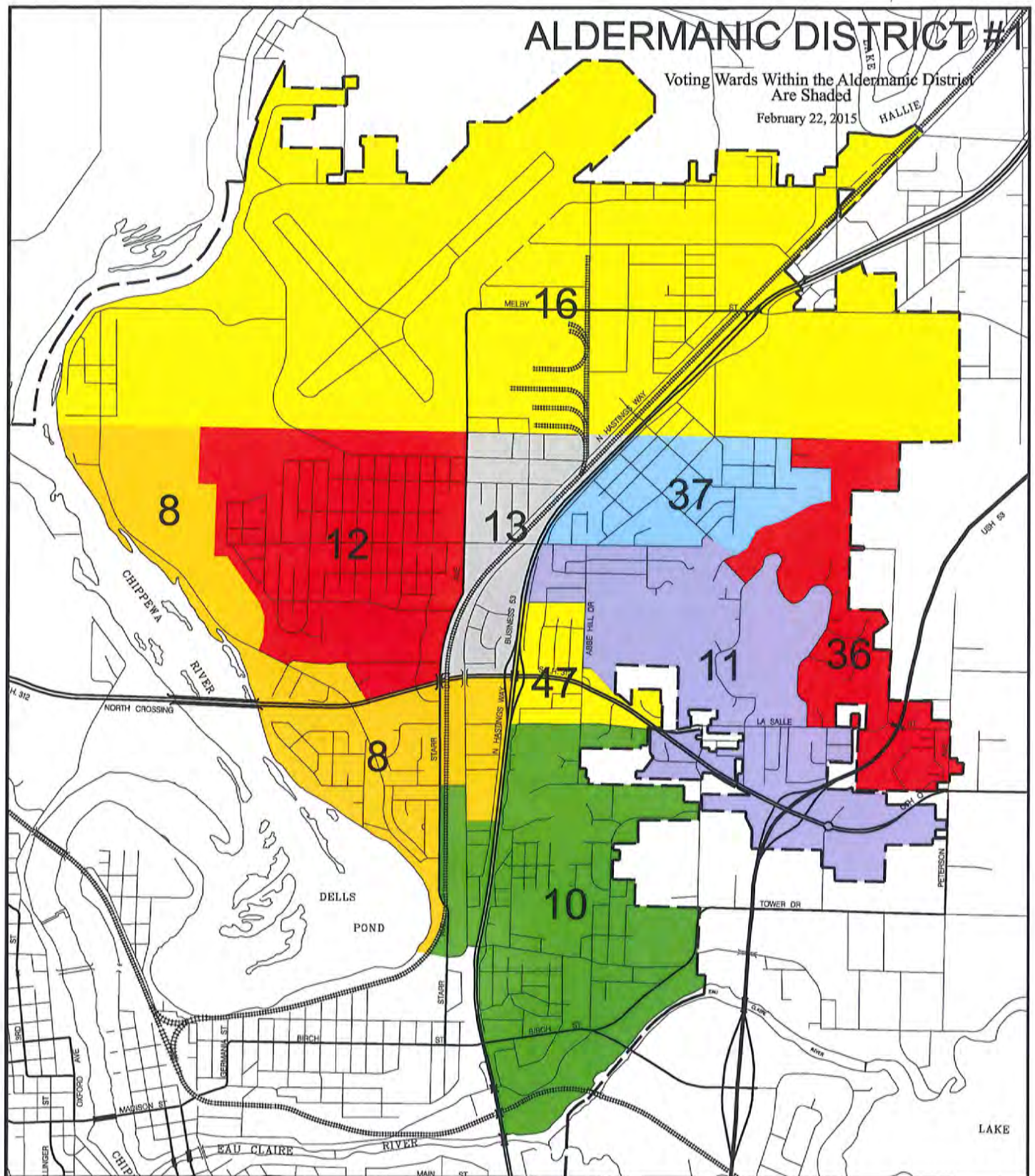
Adopted August 23, 2011



# ALDERMANIC DISTRICT #1

Voting Wards Within the Aldermanic District  
Are Shaded

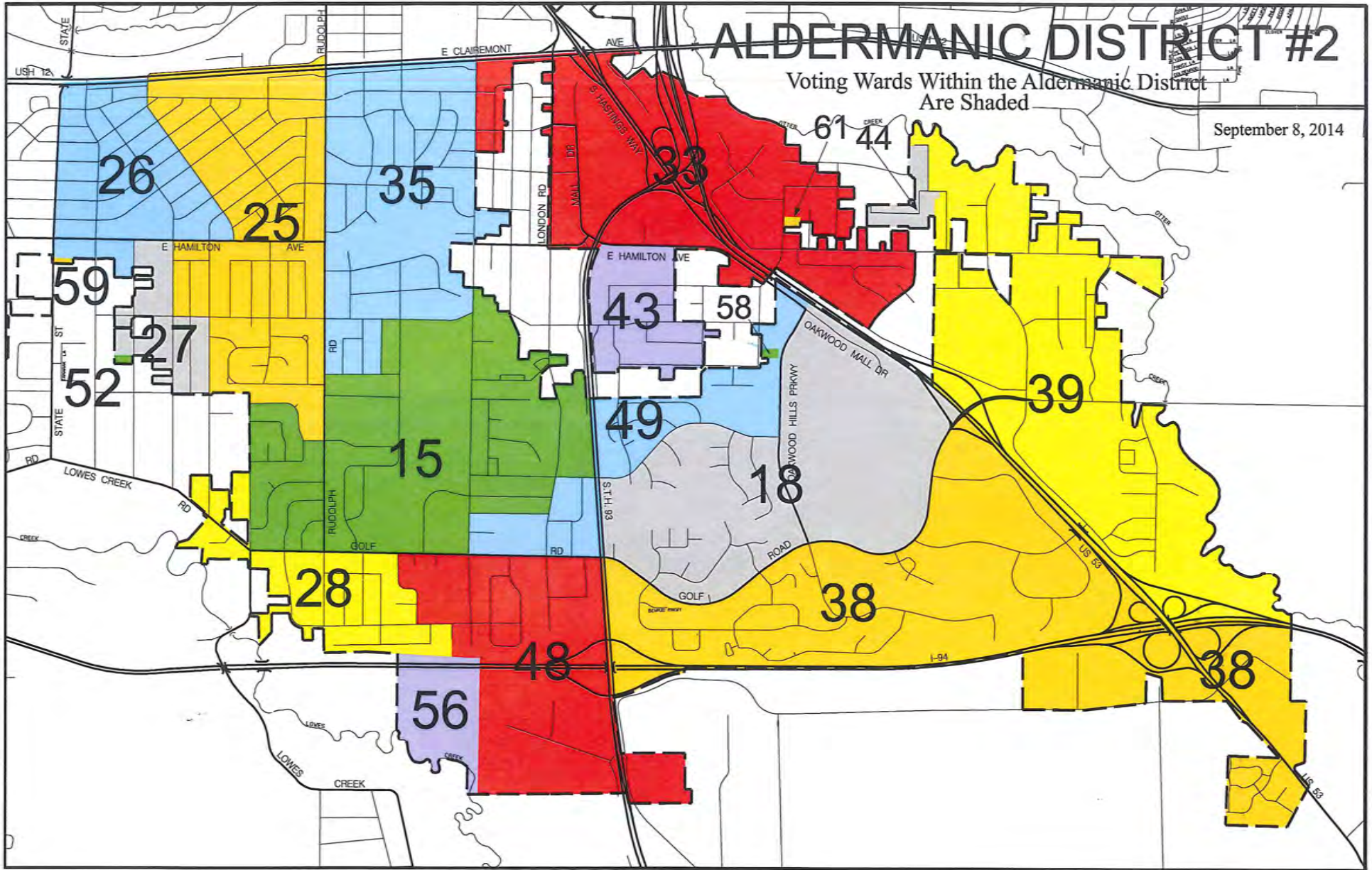
February 22, 2015



# ALDERMANIC DISTRICT #2

Voting Wards Within the Aldermanic District  
Are Shaded

September 8, 2014



**ALDERMANIC DISTRICT #3**

Voting Wards Within the Aldermanic District  
February 22, 2015

The map displays the following voting wards within Aldermanic District #3:

- Ward 3:** Purple shaded area in the north-central part of the district.
- Ward 20:** Green shaded area in the north-western part of the district.
- Ward 21:** Red shaded area in the western part of the district.
- Ward 24:** Light blue shaded area in the north-eastern part of the district.
- Ward 30:** Blue shaded area in the eastern part of the district.
- Ward 57:** Yellow shaded area in the south-central part of the district.
- Ward 63:** Grey shaded area in the southwestern part of the district.

Key streets and landmarks shown include Menomonee St, Chippewa River, W. Clairemont Ave, E Hamilton Ave, and I-94.

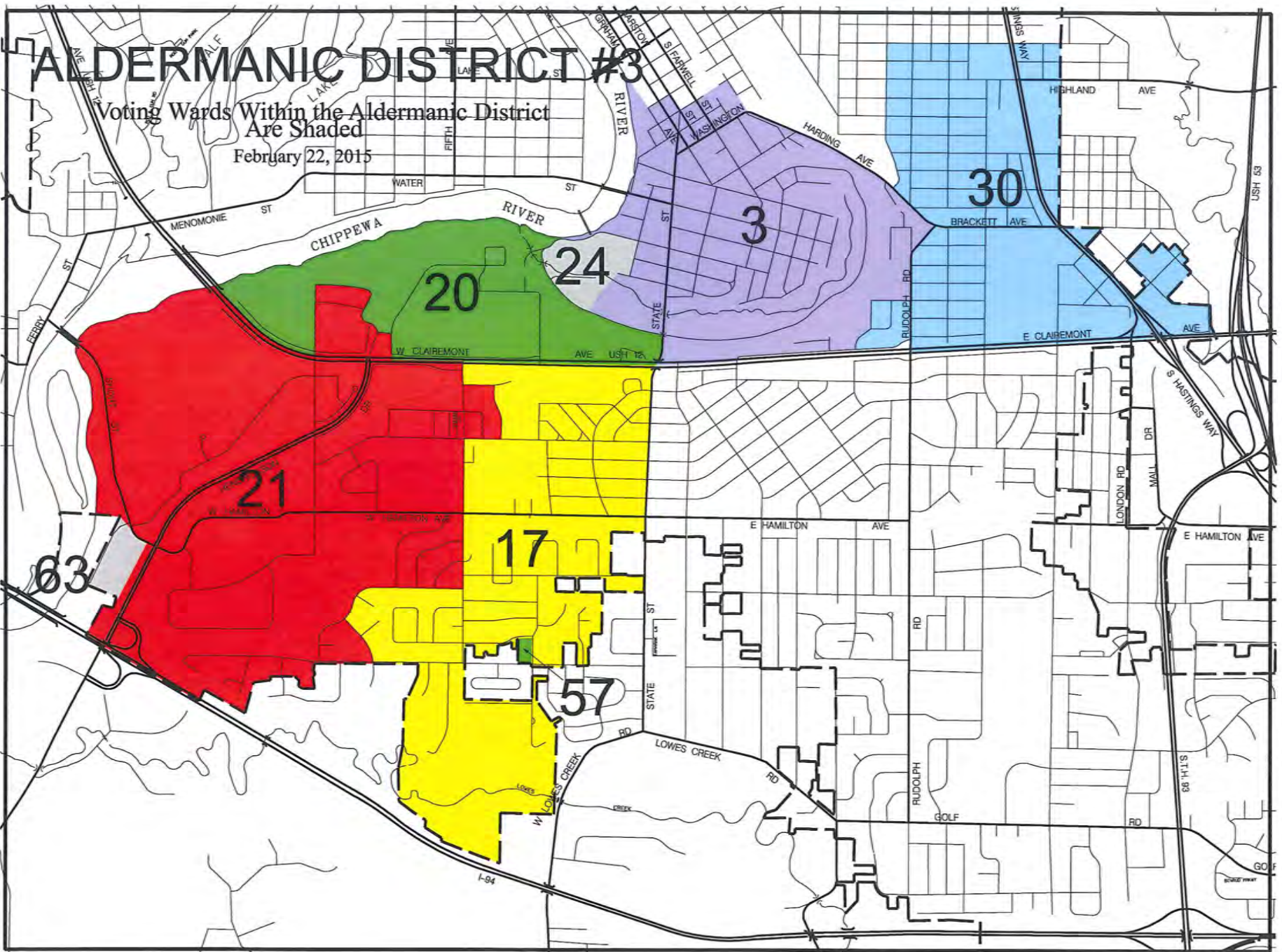
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Voting Wards Within the Aldermanic District  
February 22, 2015

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- Ward 63:** Grey shaded area in the southwestern part of the district.

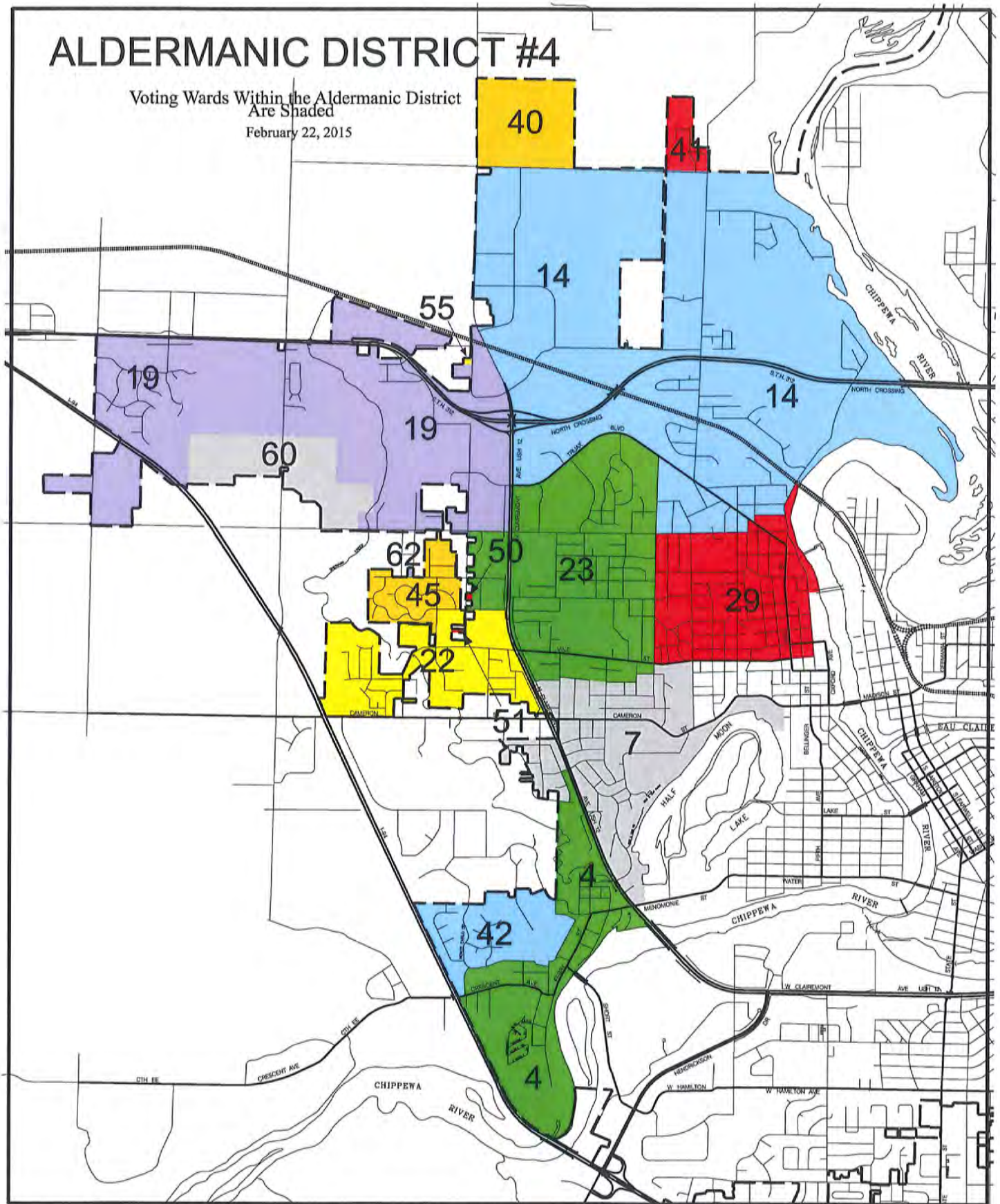
Key streets and landmarks shown include Menomonee St, Chippewa River, W. Clairemont Ave, E. Hamilton Ave, and I-94.

[illegible]

# ALDERMANIC DISTRICT #4

Voting Wards Within the Aldermanic District  
Are Shaded

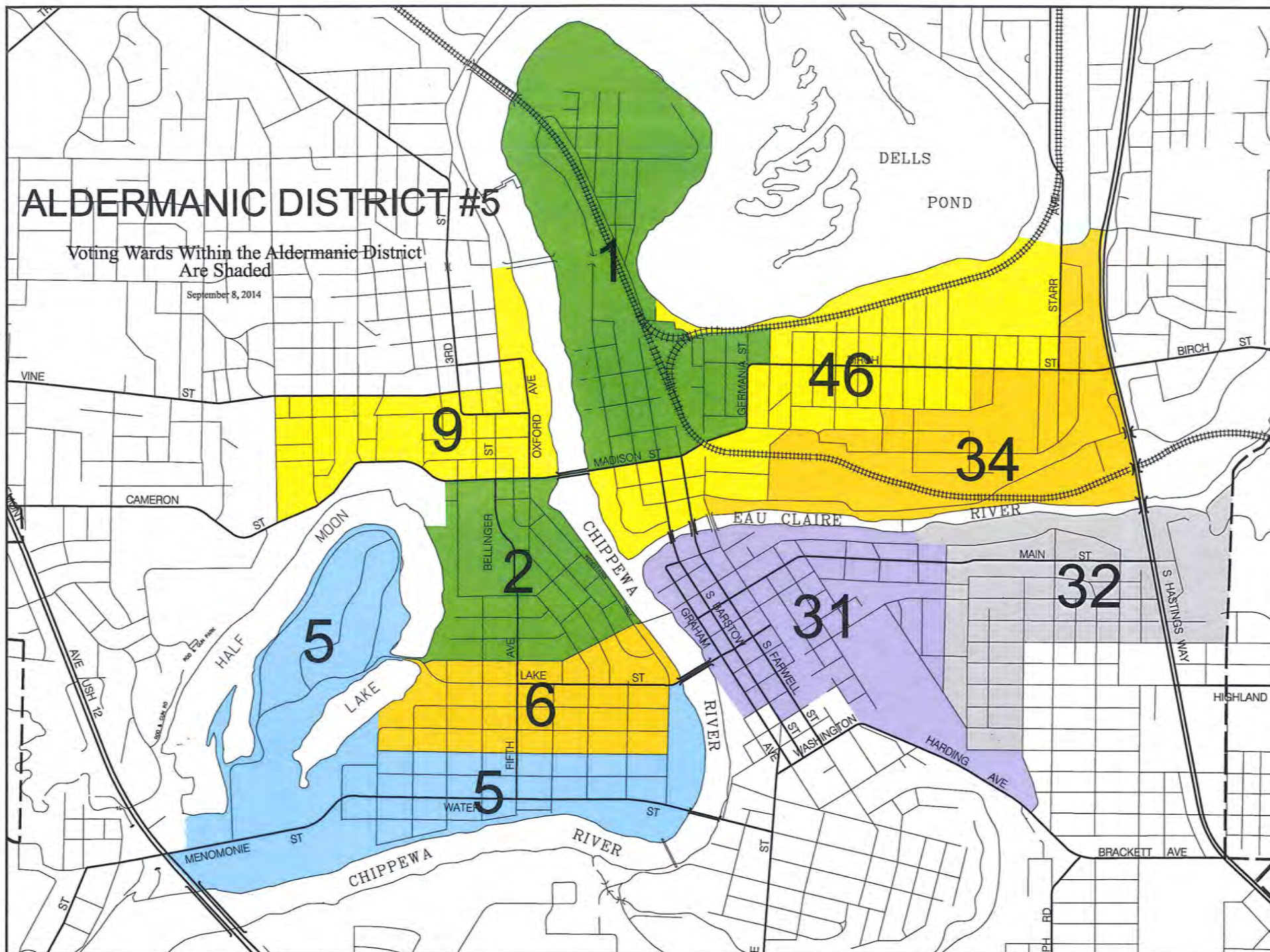
February 22, 2015



# ALDERMANIC DISTRICT #5

Voting Wards Within the Aldermanic District  
Are Shaded

September 8, 2014





## Section 3

# Form of Government

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## COUNCIL-MANAGER FORM OF GOVERNMENT

The City of Eau Claire is organized under the City Manager Plan as defined in Chapter 64, Subchapter 1, of the Wisconsin Statutes. The organization of Eau Claire City government is further defined under Chapter 2.04 and Chapter 2.08 of the Code of Ordinances of the City of Eau Claire (copies included).

This Council-Manager form of government was adopted by the voters of the city of Eau Claire in 1949. The plan was originally developed in the United States and combines the strong political leadership of elected officials with the professional managerial experience of a city manager. Approximately 60% of the cities in the United States with populations over 25,000 have an appointed local government manager.

In November of 1992 a referendum was passed by Eau Claire voters specifying the election of a city council president at large, with five council members elected from five aldermanic districts, and five members elected at large. Eau Claire is the only city in the state of Wisconsin to have a city council president elected directly by the voters.

**POWERS OF THE CITY COUNCIL**  
(as defined in Chapter 64 of the Wisconsin Statutes)

**Forms of City Government--Council/Manager Plan**

**Subchapter I**

**64.07 Powers of Council: Its organization; quorum, meetings**

- (1) The council shall possess and exercise all legislative and general ordinance powers imposed and conferred by general law or special charter upon the mayor and common council and the various boards and commissions not inconsistent with ss. 64.01 to 64.15, and in force in such city at the time of its reorganization and such additional powers as are hereinafter imposed and conferred, but such council shall not have the power to enact special executive or administrative orders, it being the intent of ss. 64.01 to 64.15 to separate the legislative and executive powers of city government.
- (2) At its first meeting, the city council shall select by majority vote one of its members to act as president.\* The president shall be the presiding officer of the council and shall have a vote but shall have no veto power.
- (3) A majority of members of the council shall constitute a quorum, and a majority vote of all members of the council shall be necessary to adopt any ordinance or resolution.
- (4) The ayes and noes shall be called and recorded on the vote upon every ordinance and resolution.
- (5) The council shall provide by ordinance for the time of holding regular meetings, and special meetings shall be called by the president or by any two council members or by the city manager.
- (6) All meetings of the council or any committee thereof, whether regular or special, shall be open to the public.

*(\*Note: The 1992 referendum specified that the city council president be elected by the voters. Section 2.04.010(a) of the City Ordinances takes precedence over this particular portion of the statute.)*

**POWERS OF THE CITY MANAGER**  
(as defined in Chapter 64 of the Wisconsin Statutes)

**Forms of City Government--City Manager Plan**

**Subchapter I**

**64.11 Powers of the city manager, appointments.**

- (1) The city manager shall be the chief executive officer of the city and head of the city administration and shall possess and exercise all the executive and general administrative powers imposed and conferred by general law or special charter upon the mayor and common council and upon the various boards, commissions and officers and in force in such city at the time of its reorganization under ss. 64.01 to 64.15, and such additional powers as are herein imposed and conferred.
- (2) The city manager shall have the power to create minor administrative offices and positions and to discontinue such offices and positions according to his judgment of the needs of the city.
- (3) The city manager shall have the power to appoint all heads of departments, all subordinate city officials and all city employees and to remove such appointees at any time their services or the conduct of their offices becomes unsatisfactory to him. This subsection shall not be construed as depriving the board of fire and police commissioners or the chiefs of fire and police departments of any city of all the powers conferred by s. 62.13.
- (4) No head of a department, city official, or city employee shall be appointed for a fixed term, but during good behavior and satisfactory service.
- (5) All appointments shall be purely on merit and with a view to securing the best available appointee for the place. Due consideration shall be given to training, experience, ability, and general qualifications and fitness for performing the duties of the office and no weight or consideration shall be given to residence, nationality, or to political or religious affiliations.
- (6) Residence in the city or state shall not be a qualification for any such appointment.
- (7) The applications, records, recommendations and qualifications of all applicants shall be immediately placed and thereafter kept on file and shall be matters of public record subject to the examination and inspection of the public at all reasonable times.
- (8) In the event that such a city has established under the provisions of s. 66.0509 a civil service system, then the powers and duties of the city manager as provided in this section shall be limited and governed by such rules and regulations as may be promulgated under such civil service system.

## Chapter 2.04

### CITY GOVERNMENT

#### Sections:

- 2.04.010 Reorganization--Aldermanic districts--Council salaries.
- 2.04.011 City council--Duties and responsibilities.
- 2.04.012 City manager; qualifications, selection, removal.
- 2.04.013 Powers of city manager, appointments.
- 2.04.015 City officials--Election.
- 2.04.020 Officers--Election.
- 2.04.030 Reorganization--Purpose.
- 2.04.040 City departments.
- 2.04.050 Appointment to boards and commissions.
- 2.04.060 Acting city manager.

**2.04.010 Reorganization--Aldermanic districts--Council salaries.** A. The government of the City of Eau Claire is reorganized under Chapter 64 of the Wisconsin Statutes providing for a city manager plan, with a council composed of eleven members to be nominated and elected for three-year terms. The members of the City Council shall be comprised of the following:

a. One member elected at large every third year who shall be the Council President and shall preside at all meetings of the City Council. Except, the Council President shall be elected to a single two year term in 2012, then, beginning in 2014 and continuing thereafter, shall again be elected to three year terms.

b. Five members elected every third year beginning with the year 2009 from and by the electors of districts apportioned according to law.

c. Five members elected at large every third year beginning with the year 2010.

d. The aldermanic districts from which the five members of the council shall be elected pursuant to the provisions of subsection A. b. are established as follows:

Aldermanic District One consisting of Wards 8, 10, 11, 12, 13, 16, 36, 37, 47 and 54.

Aldermanic District Two consisting of Wards 15, 18, 25, 26, 27, 28, 33, 35, 38, 39, 43, 44, 48, 49, 52 and 53.

Aldermanic District Three consisting of Wards 3, 17, 20, 21, 24, and 30.

Aldermanic District Four consisting of Wards 4, 7, 14, 19, 22, 23, 29, 40, 41, 42, 45, 50 and 51.

Aldermanic District Five consisting of Wards 1, 2, 5, 6, 9, 31, 32, 34, and 46.\*

B. The salaries of the members of the city council shall be \$3,000 per year for each council member and \$3,600 for the council president.\*\* (Charter Ord. 7009, 2012; Charter Ord. 6990, 2011; Charter Ord. 6980, 2011; Charter Ord. 7015, 2011; Ord. 6824 §1, 2008; Ord. 6601, 2005; Charter Ord. 6181, 2001; Ord. 5935, 1999; Charter Ord. 5466 §1, 3, 1995; Charter Ord. 5286 §1, 1992; Charter Ord. 5285, 1992; Charter Ord. 5157 §1, 1991; Ord. 4697, 1986; Charter Ord. 4688, 1986; Charter Ord. 3875 §1, 1978; Ord. 3626, 1976; Prior code §1.01 I).

**2.04.011 City council--Duties and responsibilities.** The city council shall possess and exercise all legislative and general ordinance powers imposed and conferred by general law or special charter. The council shall not have the power to enact special executive or administrative orders, it being the intent of ss. 64.01 to 64.15, Wisconsin Statutes, (city manager plan) to separate the legislative and executive powers of city government. (Ord. 5521 §1, 1995).

\* Editor's Note. Charter Ordinances 7009 and 6990 both provided as follows: "That this charter ordinance shall be initially applicable to the city council elected in April 2012, and otherwise shall not affect or apply to the current members of the Eau Claire City Council or operate to modify the aldermanic districts from which they were elected.

\*\* Editor's Note. Charter Ordinance 5466 provided as follows: "Payment of the increased compensation provided by this amendment shall commence for all members of the city council and council president on the third Tuesday in April, 1996."

**2.04.012 City Manager; qualifications, selection, removal.** The Council shall engage for an indefinite term a city manager who shall have charge of the executive side of the city government and who shall be responsible for the efficiency of its administration. (Ord. 5521 §2, 1995).

**2.04.013 Powers of city manager, appointments.** A. The city manager shall be the chief executive officer of the city and head of the city administration and shall possess and exercise all the executive and general administrative powers imposed and conferred by general law or special charter.

B. The city manager shall have the power to create minor administrative offices and positions and to discontinue such offices and positions according to the city manager's judgment of the needs of the city.

C. The city manager shall have the power to appoint all heads of departments, all subordinate city officials, and all city employees and to remove such appointees at any time their services or the conduct of their offices becomes unsatisfactory to the city manager. (Ord. 5521 §3, 1995).

**2.04.015 City officials--Election.** A. Primary--when required. Pursuant to the provisions of ss. 8.11(1)(b) and 66.01, Wis. Stats., whenever the number of candidates filing nomination papers for a city office exceeds two times the number to be elected to such office, a primary to nominate candidates for the office shall be held in accordance with the provisions of the Wisconsin Statutes.

B. Not eligible for more than one office. No candidate for city office is eligible to appear on the ballot for more than one city office at the same election. (Charter Ord. 5321 §§1, 2, 1993).

**2.04.020 Officers--Election.** The election of officers under the form of government so adopted shall be held as provided by law upon the first Tuesday in April next succeeding the adoption of the charter ordinance codified in Sections 2.04.010 through 2.04.040, 2.12.010, Chapter 2.16, Sections 2.24.010, 2.24.020, 2.28.010, 2.32.010, 2.36.010 through 2.36.070 and Chapter 2.40. (Prior code §1.01 II).

**2.04.030 Reorganization--Purpose.** It is recognized that a sound organization pattern is necessary for the efficient operation of any business, public or private; and that in city government an organizational plan is needed which will fix responsibility and authority and place similar and related functions in the proper department. It is further recognized that there must be a limited span of direct control for effective administration and that departmental organization established under Section 2.04.040 provides for such control and the most efficient administrative organization. (Charter Ord. 3778 §2, 1977; Prior code §1.03 I).

**2.04.040 City departments.** The following departments are created:

Public works	Finance
Parks and recreation	Planning and development
Police	Human resources
Fire	City attorney

(Charter Ord. 4491 §1, 1984; Charter Ord. 3778 §3, 1977).

**2.04.050 Appointment to boards and commissions.** A. Except as provided under subsection B., appointments to all boards, commissions, committees or other similar entities to which appointments are made by the city council, including those established by state law or city ordinance or resolution, shall be made by the city council, following receipt of a recommendation thereon of an advisory committee comprised of the city council president and 2 members of the city council.

B. The appointment of a member of the city council to a board or commission shall not be subject to the provisions contained in subsection A. but shall be made directly by the city council. (Charter Ord. 6935 §1, 2010; Charter Ord. 5733, 1997; Charter Ord. 4705 §2, 1987).

**2.04.060 Acting city manager.** The city manager may, in writing filed in the office of the city clerk, appoint an acting city manager who, during the absence or disability of the city manager, shall perform the duties and responsibilities of the city manager. When so appointed, the acting city manager shall have the same powers, obligations and authority as the city manager. The acting city manager may participate as a member with full power and authority on those boards, committees, commissions or other bodies of which the city manager is a member, unless, in the opinion of the acting city manager, such participation is in conflict with the principal duties and responsibilities of the acting city manager. (Charter Ord. 4862 §2, 1988).

## Chapter 2.08

### CITY COUNCIL\*

#### Sections:

- 2.08.010 Meetings--Regular--Times.
- 2.08.020 Meetings--Special.
- 2.08.030 Voting rules.
- 2.08.040 Officer election.
- 2.08.050 Meetings--Public.
- 2.08.060 Meetings--Order.
- 2.08.070 Votes--Called and recorded.
- 2.08.075 Agenda.
- 2.08.080 Order of business.
- 2.08.090 Suspension of rules.
- 2.08.095 Reconsideration.
- 2.08.100 Resolutions and motions in writing.
- 2.08.110 Resolutions--Introduction and passage.
- 2.08.120 Ordinances--Introduction and passage.
- 2.08.130 Ordinances--Reading.
- 2.08.140 Ordinances--Numbering.
- 2.08.150 Board of public works--Council to act as.

**2.08.010 Meetings--Regular--Times.** A. The regular legislative meetings of the city council shall be held in the council chambers of the city hall on the second and fourth Tuesdays of each month beginning at 4:00 p.m. The council shall also meet for the purpose of holding hearings, discussions, and the conducting of other public business, on the Mondays preceding said Tuesdays beginning at 7:00 p.m. The council may meet at other public places within the city. By resolution, the date and time of any such meeting may be changed or the meeting may be canceled. The council may adjourn from time to time.

B. The provisions of subsection A shall not prevent the city council from meeting outside the limits of the city with the legislative body of another unit of government on matters of mutual interest and concern. (Ord. 4728, 1987; Ord. 4521, 1984; Ord. 3713 §1, 1977; Ord. 3699 §1, 1976; Ord. 3183 §1, 1970; Prior code §1.02(a)).

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\* For statutory provisions regarding the powers of the city council, its organization, quorum and meetings for a city manager form of government, see WSA 64.07; for qualification and duties of councilmen, see WSA 64.08; for provisions of general charter law regarding the composition, procedures and power of city councils, see WSA 62.11; for provisions of general charter law regarding composition of the board of public works, see WSA 62.14.

**2.08.020 Meetings--Special.** Special meetings may be called by the president of the council, the city manager, or any two members of the council and shall be held in the council chamber, or at such other public place within the city as determined by the council. No other business shall be transacted at a special meeting except as specified in the notice of such meeting, unless all members are present and no objection is made. Special meetings may be called only by written notice served upon each member personally, or by leaving such notice at his usual abode, or place of business, at least six hours before the meeting. Such notice shall contain a statement of the business for which the meeting is called. (Ord. 5530, 1995; Ord. 3183 §II, 1970; Prior code §1.02(b)).

**2.08.030 Voting rules.** A majority of the council shall constitute a quorum, and a majority vote of all the members of the council shall be necessary to adopt any ordinance or resolution, except where a greater number is required by law. (Prior code §1.02(c) 1).

**2.08.040 Officer election.** At the meeting of the council held on the third Tuesday in April the council shall elect a president pro tem for the ensuing year. (Ord. 5403, 1994; prior code §1.02(c) 2).

**2.08.050 Meetings--Public.** Except as otherwise provided by Section 14.90 of the Wisconsin Statutes, all meetings of the council, whether regular or special, shall be open to the public. (Prior code §1.02(c) 3).

**2.08.060 Meetings--Order.** The president shall preserve order during the sessions of the council, decide all points of order, subject to appeal to the council, and in the absence of any rule or provision of law upon any matter of business, the council shall be governed by Robert's Rules of Order. (Prior code §1.02(d)).

**2.08.070 Votes--Called and recorded.** An "aye" and "no" vote shall be called and recorded on the vote upon every ordinance and resolution, and may be taken upon any other matter when requested by a councilman. (Prior code §1.02(3)).

**2.08.075 Agenda.** An agenda shall be prepared for all meetings of the city council by the city manager. The city manager shall advise the council president, or other council member presiding over the meeting, of the items included on the agenda. An item may be placed on the agenda by the city manager, council president, or any other council member. An item recommended for placement on an agenda may be removed from the agenda by the city manager or council president. If the city manager or council president removes an item from the agenda, the item shall be restored to the agenda upon the request of two or more council members. (Ord. 5734, 1997; Ord. 5509, 1995; Ord. 5273, 1992).

**2.08.080 Order of business.** The order of business at all city council meetings shall, unless otherwise agreed, be as follows:

- A. Pledge of allegiance;
- B. Roll call;
- C. Approval of minutes;
- D. Consent agenda;
- E. General matters to come before the city council;
- F. Resolutions;
- G. Ordinances;
- H. Other matters that may be properly considered by the city council.

The city council may convene in closed session at any time, upon proper notice, for appropriate purposes. (Ord. 4102, 1980).

**2.08.090 Suspension of rules.** These rules, or any of them, may be temporarily suspended at any meeting by vote of two-thirds of the number of members present. The vote upon suspension of rules shall be by "ayes" and "noes" and shall be recorded. (Ord. 5735, 1997; Prior code §1.02(g)).

**2.08.095 Reconsideration.** Any member who voted with the prevailing side on any question may move for a reconsideration of the vote immediately following the vote or at the next succeeding

regular meeting of the council. If a motion to reconsider is defeated, it may not again be presented to the council. (Ord. 5792, 1998).

**2.08.100 Resolutions and motions in writing.** All resolutions and motions introduced or made shall be in writing. (Prior code §1.02(h)).

**2.08.110 Resolutions--Introduction and passage.** Resolutions may be introduced and passed; and resolutions introduced at a previous meeting may be put on their passage. (Prior code §1.02(i)).

**2.08.120 Ordinances--Introduction and passage.** Ordinances may be introduced and ordinances introduced at a previous meeting may be put in their passage. Ordinances may be introduced and passed at the same meeting upon suspension of the rules. (Prior code §1.02(j)).

**2.08.130 Ordinances--Reading.** When a request for a reading is made by a member of the city council, an ordinance shall be read by the clerk upon its introduction and a second time when put for final passage. Unless such a request is made, the reading shall be dispensed with. (Prior code §1.02(k)).

**2.08.140 Ordinances--Numbering.** All ordinances shall be numbered consecutively. Where an ordinance would have the effect of amending, altering or adding to the code of the general ordinances of the city it shall so recite, stating the section number so affected. When practicable the city attorney shall, from time to time, insert and consolidate every general ordinance passed since the adoption of the code in its proper and appropriate place therein and shall then affix its proper section number and the same shall thereafter be referred to by said section number. Until so consolidated in the code, ordinances shall be referred to by their original numbers. (Prior code §1.02(1)).

**2.08.150 Board of public works--Council to act as.** The duties and powers of the board of public works shall be exercised by the city council pursuant to Section 62.14 of the Wisconsin Statutes. (Charter Ord. 3778 §4, 1977; Prior code §1.08).



## Section 4

# Council Procedures

## SECTION 4: COUNCIL PROCEDURES

### 4.1 Foreword

*For those to whom much is given, much is required. And when at some future date the high court of history sits in judgment on each of us – recording whether in our brief span of service we fulfilled our responsibilities to the state – our success or failure, in whatever office we hold, will be measured by the answers to four questions: First, were we truly men of courage... Secondly, were we truly men of judgment... Third, were we truly men of integrity... Finally, were we truly men of dedication.*

*-- John F. Kennedy*

The material in this section attempts to provide you with information to lawfully, ethically, and effectively serve the citizens of Eau Claire as an elected City Council member. The section provides an overview of the legislative role of City Council, an introduction to a variety of laws, codes, and policies that affect you as a public official, Council meeting protocol, and miscellaneous City procedures that may affect your service on City Council. If you have any questions or comments regarding any of the matters covered in this section, please contact either the City Manager or City Attorney.

As a representative of the City's legislative body, members of the City Council deal with heavy workloads, consider many different issues, and are at times subjected to tremendous pressure to make decisions that can impact the lives of all Eau Claire residents. Demonstrating respect for each individual through courteous words and actions is a standard that can help guide you in your proceedings, despite these pressures and even in the most difficult of situations. Stated in another way, allow the common values of courtesy, respect for differing opinions, belief in our democratic process, and a deep interest in the welfare of the people of Eau Claire to bind you together even as you differ on specific issues. Doing so will maintain and strengthen the citizen's trust in you, the institution of the City Council, and the future of the City of Eau Claire.

Thank you for your service to the City of Eau Claire and best wishes on a meaningful term in office as an Eau Claire Council member.

### 4.2 City Council - City Manager Functions

Eau Claire, by charter, has established a City Council–City Manager form of local government pursuant to Wisconsin Statutes Chapter 64. The organization of Eau Claire city government is further defined under Chapter 2.04 and Chapter 2.08 of the Code of Ordinances of the City of Eau Claire.

The citizens adopted the Council-Manager form of government by referendum in 1949. This form of local government was originally developed in the United States and combines the strong political leadership of elected officials with the professional managerial experience of a City Manager. Approximately 60% of the cities in the United States with populations over 25,000 have an appointed local government manager.

In November of 1992, voters modified the membership of City Council by referendum, specifying the election of a City Council president at large, with five Council members elected from five aldermanic districts, and five members elected at large. Eau Claire is the only city in the state of Wisconsin to have a City Council president elected directly by the voters.

Governance of our City relies on the cooperative efforts of elected officials, who set policy, and City staff, who implements and administers those policies. Mutual cooperation and respect are critical to this relationship. Clear, honest communication that respects the ability, experience, and dignity of each staff member and employee of the City has been and continues to be the hallmark of our organization.

**City Council Responsibilities.** Because Local Governance is more effective when Council Members and City Staff work together, a good working relationship is maintained through mutual respect, which begins with open communication. The Council accepts the following responsibilities in its relationship with the City Manager and City Staff:

- Engage the Manager – avoid conflicts with early and frequent communication
  - Meet with the Manager as soon as practical about concerns and troubling issues
  - Keep regularly scheduled meetings
  - Be forthcoming with concerns
- Inform the Manager - about policy-related contacts with City Staff
  - Communicate with Manager first, then work closely with appropriate staff contact
  - Copy the Manager on email communications with City Staff
- Reflect community concerns to City Staff
  - Serve as a barometer on community sensitive issues
- Use clear communication techniques
  - Be clear about expectations for how and when questions are answered
  - Practice a “no-surprises” approach
  - Notify staff if reports are missing information, or more information is desired, prior to a public meeting

**City Manager Responsibilities.** The City Manager is in charge of the executive side of City government and is responsible for carrying out Council directives and for the efficiency of City operations. Eau Claire Code § 2.04.012. Further, the City Manager is the chief executive officer of the City and is responsible for the appointment, removal, and performance of all department directors and all City employees. Wis. Stats. § 64.11. There is an understanding of the Council's role as policy makers, as well as the Manager's role in operationalizing the Council's policy. Within that context, it is the Manager's role to serve as a policy advisor to the Council, recognizing the Council provides direction and makes policy decisions. The City Manager's Responsibilities include

- Provide multiple alternatives if the issue appears to present itself as a flash-point issue and provide advance insight to future or emerging issues.
- Provide staff reports that give insights into alternatives considered leading up to the recommendation and that outline financial consequences.
- Schedule regular, individual meetings with Council members and send weekly briefing reports to the Council.
- Assure customer-service orientation, approach and bearing is shared by all City staff.
- Acknowledge and respond to Council member or seek clarification in the event a Council member's request for action appears to suggest operational direction.

**City Manager is Primary Contact.** Please direct any questions or requests for additional background information to the City Manager, City Attorney, or department directors. If e-mail contact is made directly to a department director, please copy the City Manager.

Directives to City staff or specific requests for work product or meeting time should be made to the City Manager (or the City Attorney when appropriate). If you have a question regarding the appropriateness of working with individual staff members, please contact the City Manager for prior direction. Council members are respectfully asked to refrain from involvement in employee job functions, staff meetings, and communications, except through the City Manager or, as appropriate, the department director. Management responsibility rests ultimately with the City Manager, and that is where discussion with and responsibility to City Council is focused.

Council members may, of course, contact any member of City staff, and staff may contact their Council representative off-duty. However, while at work, it is the City Manager and management staff that allocates available staff resources. Any request for information or work product beyond typical protocol for other customers should be directed to the City Manager or department director. Except in emergencies, please limit calls, contacts, or meetings with City staff to the City's normal hours of operation (8:00 a.m. to 5:00 p.m., Monday through Friday).

It has been and continues to be the policy of the City Manager's office that materials supplied to one Council member in response to a request will be shared with all other members of Council. This is done to provide equal access to information.

**Emergencies.** Council members should first contact the City Manager. If the City Manager is not available, Council should next contact the Acting City Manager, then the appropriate department director. If they cannot be immediately reached and the situation warrants, please contact the Communications Center at 911 for situations necessitating emergency response and the potential establishment of emergency government protocols.

**Conduct of Individual Employees.** Concerns and questions about staff performance should be addressed directly to the City Manager. It is respectfully requested that Council members refrain from expressing concerns about the performance of a City employee in public or to the employee directly. Council members should refer to the City Manager any employee who does not follow proper conduct in their dealings with Council members, other City staff, or the public. These employees may be subject to discipline for their actions in accordance with the City Personnel Policy or collective bargaining agreement, and it is therefore important that appropriate procedures be followed.

Actions, performance, and discipline of police and fire department employees are under the review of the Police and Fire Commission. Questions about protective service employees should be referred to the Police Chief, Fire Chief, or Director of Human Resources.

**Role of the City Council in a Disaster.** When responding to emergencies, large and small, the City of Eau Claire operates under the Incident Command System (ICS). This is a standardized all-hazards incident management concept that allows its users to adopt an integrated organizational structure to match the complexities and demands of single or multiple incidents. Using ICS helps to ensure the safety of responders and others while achieving tactical objectives and efficiently using resources.

During a significant emergency or disaster situation impacting the City of Eau Claire, prompt action may be necessary to protect the health, safety, welfare, and good order of the City. If the required response to the emergency exceeds the City Manager's authority and the City Council is not available or unable to meet promptly, the City Manager or Acting City Manager, by State law and City code, may by proclamation declare a state of emergency. The proclamation would allow the City Manager or Acting City Manager to exercise all of the powers conferred upon the City Council which the City Manager believes necessary and expedient until such time as the City Council can reasonably convene.

A secondary role of the Council in a larger emergency situation is to receive information and, when appropriate, help provide assurance to the community that the emergency is being addressed. The City Council should coordinate any external communication through the ICS-designated Public Information Officer (PIO) in order to minimize the dissemination of conflicting information and provide a consistent message to the community.

### 4.3 Constituent Contact

*You have heard the story, haven't you, about the man who was tarred and feathered and was carried out of town on a rail? A man in the crowd asked him how he liked it. His reply was that if not for the honor of the thing, he would much rather walk.*  
*-- Abraham Lincoln*  
*(responding to a friend on how he liked being president)*

Members of the City Council are likely to be contacted by constituents via e-mail, letter, telephone call, or at social events or chance encounters. These contacts generally take the following form: (1) a request for a particular service to be performed; (2) an inquiry about a City policy, project, or issue; (3) a complaint about a City service, contact, or policy; or (4) a desire to obtain or influence a Council member's opinion on an issue under consideration by the Council.

Staff welcomes the opportunity to work with City Council to address constituent issues and concerns. When a Council member receives a contact from a constituent for a specific problem, it works best if the Council member notifies the City Manager. The City Manager will then direct staff to contact the constituent for follow up. The appropriate staff member will typically meet with the person, call on the phone, or respond by e-mail or in writing. The City Manager's office will in turn respond to the Council member who received the constituent contact, so that he/she knows how the matter was handled or resolved.

**E-mail.** The use of e-mail to provide information quickly and to a large audience has increased substantially over the past several years. Council members are encouraged to remember the following regarding e-mail communication:

- All e-mail should be treated as potentially “public” communication, as all e-mails sent in official capacity as a Council member are subject to the Public Records Law.
- Avoid violating the Open Meetings Law by not discussing matters before City Council or likely to come before City Council with other members outside of public meetings. Remember that you may only discuss such matters of public interest with 2 or more fellow members (3 total) in a properly noticed public meeting. Even if you only send an e-mail to another member, there is the potential of forwarding that message to additional Council members, thereby violating the Open Meetings Law through what is called a “traveling quorum.” Predetermination of voting blocks via e-mail outside of a noticed meeting is illegal. (As is doing so in person or by telephone).
- Be cautious with humor, sarcasm, or word play, as they do not always translate as intended in written e-mail.

**Avoiding Duplicate and/or Conflicting Responses.** Depending on the type of constituent contact made, it may not be evident that the same request, question, concern, or complaint was sent to other members of Council, to the public, or to City staff. To avoid conflicting responses, before answering a specific constituent request, Council members are encouraged to contact the City Manager's office to see if a response has already been provided or are in the process of being prepared.

**Representing City or Personal Interests.** If a Council member appears before another government agency or organization to give a statement on an issue, that Council member should clearly indicate whether his or her statement reflects personal opinion or is the official position of the City. If the Council member represents another organization, business, or individual, the member should be clear about whom they represent with their statement.

Council members are provided with City letterhead for their official use. If an opinion is expressed in such a letter, Council members are encouraged to clearly state the official City position so that the reader can readily understand the difference between the official City position and the viewpoint being expressed by the individual Council member. The City Manager would appreciate receiving copies of correspondence using City letterhead in order to be aware of issues that may come to the attention of administration.

**Respect for Diverse Opinions.** A primary role of most boards, commissions, and committees is to represent many points of view in the community and to provide the Council with advice based upon a full range of concerns and perspectives. Council members should encourage, promote, and facilitate citizen participation on boards, commissions, and committees by being courteous, fair, respectful, and appreciative of all citizens providing this important community service, regardless of their point of view on a particular matter.

**Ceremonial Events – Ribbon Cuttings.** The City receives numerous requests to participate in and provide a designated City representative at ceremonial and community events. Coordination of Council member attendance at these events is handled through the City Manager's office.

#### **4.4     Conflict of Interest – Ethics**

*Always do right. This will gratify some people and astonish the rest.*  
-- Mark Twain

*When angry count 10 before you speak. If very angry count 100.*  
-- Thomas Jefferson

As suggested in the Foreword to this section, as representatives of the City of Eau Claire, you should exemplify the best of common values in your professional and personal lives. If you conduct yourselves with civility, respect other opinions, and maintain the best interests of the City of Eau Claire as a foremost goal, you will honor yourselves and the City in your public service. Please remember that during your term in office, the public and press will observe your behavior. They will certainly note your conduct at Council sessions and other meetings and events you attend in your official capacity. Also expect even personal conduct, especially unflattering conduct, to be reported and scrutinized by the public. The following is intended to summarize ethical, legal requirements of public officials and to suggest ways to avoid even the perception of ethical missteps.

**Ethics Law.** State law and local code prohibit certain conduct as inherently unethical. These laws and standards are briefly outlined below. Beyond these minimum required levels of ethical conduct, there is an additional sphere of actions which, while not illegal, may be perceived as unethical by the public and therefore should be avoided. You are encouraged to seek the legal advice of the City Attorney if you believe your conduct may fall into either area. While the City Attorney's office represents the entire City organization, this is one area in which the office is able to provide you with confidential advice. § 19.59(5), Wis. Stats.

The following are violations of either state or local ethics laws:

- Use of public office for private gain. § 19.59(1)(a), Wis. Stats.
- Improper influence; offer or receipt of anything of substantial value. § 19.59(1)(b), Wis. Stats.
- Receipt of gifts or gratuities of any value from any person or entity that may be substantially affected by the public official or by action of the City Council. Eau Claire Code § 2.72.130.
- Taking official action in matters in which the official or a family member has a substantial interest. § 19.59(1)(c), Wis. Stats.

**Conflict of Interest.** In addition to the above-referenced statutory ethical violations that must be avoided either initially or minimized by use of abstention, there are also non-statutory sources of conflict law. There is a common-law or case law concept that no person can serve two masters at the same time. A public official must serve the public with undivided loyalty, uninfluenced by private interests.

Here are some general rules to consider when deciding whether to participate in a discussion and vote on a topic before City Council or any board or committee on which you serve:

- Would an actual or apparent personal interest in a matter override your interest in the matter as an elected City official?
- Do you, any member of your immediate family, or any organization with which you are affiliated have a pecuniary or financial interest in the matter?
- Would your personal interest tend to influence you to vote differently than you would if it did not exist?

However, the apparent conflict does not extend to matters in either of the following situations:

- Your personal interest is speculative or remote (e.g., an increase in hotel room tax may affect your family-owned restaurant).
- Your personal interest is no greater than the whole class of persons or interests affected by the action. (e.g., you live in the same neighborhood as a street or sidewalk project).

The public appearance of a conflict is also a concern.

- Even though an actual conflict of interest does not exist, you should be sensitive to the public appearance of a conflict. In such a case, you should consult with the City Attorney first to get his/her opinion on whether a legal conflict exists and then, if you are interested, for advice on how to best address the situation. Understand that if a legal conflict does not exist, it is entirely up to you on whether to abstain or to take other action to minimize the appearance of conflict.

What to do if you have a conflict of interest.

- You should refrain from discussion and abstain from voting or becoming involved in any action on the matter. If you make any statement on the issue from your personal perspective during a City Council or board meeting, you should step down from your Council chair. If your personal comments are made outside of a meeting, you should take steps to clarify that your statement is of a personal nature and not as a Council member or as the official position of the City.

**Criminal Law.** While violations of the above ethical standards are serious matters that can negatively affect your stature as a Council member and result in censure, recall, or negative public attention, these are not criminal. However, there is a type of conflict of interest that is a criminal offense and therefore deserves special consideration. You may not have any private pecuniary interest, direct or indirect, in a public contract. § 946.13, Wis. Stats. Violations of this law are a felony.

If you have any private interest in a company bidding to perform city services, you must abstain from any activity related to the contract. Simply abstaining from the vote at City Council is not sufficient; you must not have any involvement in the procurement process. For this and other reasons, Council members should never insert themselves in the procurement process. Purchasing is conducted by professional staff under the ultimate direction and supervision of the City Manager. Your role as City Council members is limited to review of submitted bids and proposals. They come with the recommendation of staff in compliance with public bidding laws. Your role is at the policy level of whether or not to contract, not to negotiate the contract. If you maintain this separation of roles, you should not have to worry about this criminal law.

Non-criminal conflict of interest and ethical standards still apply, so if you do have a relationship with the recommended low bidder or any of the bidders, you should still abstain from discussion regarding the resolution to approve the project. As long as you do not participate in the purchasing or negotiation process, abstention will be sufficient to keep you in good lawful standing.

One notable exception exists. The statute does not apply to contracts in which an officer or employee has a private interest which, in the aggregate, does not exceed \$15,000 per year. Any member who believes this exception may allow them to vote on a matter should seek prior opinion of the City Attorney. Contracts entered into in violation of the statute are void and the City would assume no liability under the contract.

A second criminal violation, although relatively uncommon, is the offense of misconduct in public office. § 946.12, Wis. Stats. The law prohibits intentionally failing to perform mandatory official duties, actions in excess of lawful authority, improper exercise of discretionary authority (e.g., a public official voting in favor of a rezoning solely to increase the value of property owned by the official), acceptance of bribes, or falsifying a public document.

**Legal Opinions/Advice/Enforcement.** The City Attorney's office will provide assistance and advice in conflict matters and can offer confidential legal opinions for ethics questions arising under Wis. Stats. § 19.59. The City Attorney can also request an opinion of the State Ethics Board. Such opinions are issued to a requesting public official and are not enforcement procedures one member may bring against another. Enforcement of ethics laws is in the name of the state and is initiated by the district attorney. § 19.59(8), Wis. Stats.

#### **4.5     City Council Meetings**

*If a man be gracious and courteous to strangers, it shows he is a citizen of the world, and that his heart is no island cut off from other lands, but a continent that joins to them.*  
-- Francis Bacon

Making the public feel welcome is an important part of the democratic process. For many citizens, appearing before and speaking at a Council meeting is an once-in-a-lifetime experience that can, unfortunately, be frightening and intimidating. Council should make every effort to refrain from treating members of the public as though they are being "cross-examined" on a witness stand. Every effort should be made to be fair and impartial in listening to public testimony and to refrain from interjecting personal biases and opinions until the matter is properly before the body for deliberation and vote at its legislative session.

Public hearings and public discussions are held on the Monday evening preceding the Tuesday legislative sessions. **Public hearings** are held for those matters required by state law or city code and are typically set by a published notice stating the time, date, location, and subject to be considered by the Council. **Public discussions** are held for the Council to receive comment and input on matters of public interest.

**Role of Council President as Chair.** The Council President or, in his or her absence, the Vice-President serves as the Chair of Council meetings. In the unlikely event neither is present; the Council selects a chair for that meeting as an initial matter. As Chair, a primary duty of the Council President is to announce the order of business and keep the public and members to the topic noticed, both to further meeting efficiency under parliamentary procedure and to comply with the Open Meetings Law. Other duties of the Chair include recognizing members prior to speaking for orderly and expeditious discussion, calling for the clerk to call the roll, announcing the result of the vote, enforcing the rules of debate, and deciding issues of order with the assistance of the City Attorney. *See, Robert's Rules of Order Newly Revised, 9<sup>th</sup> Ed., pp. 440-41.*

**Fair and Equitable Treatment of Speakers.** The Chair will determine and announce limits on speakers at the start of the public hearing process. Generally, each speaker will be allotted five (5) minutes. Applicants and appellants, or their designated representatives, may be allowed more time, with the approval of the Chair. If many speakers are anticipated, the Chair may shorten the time allotment per speaker or ask speakers to limit themselves to new information or points of view not covered by previous speakers.

It is the intent and desire of the Council that all who wish to speak be given an opportunity. Generally, each speaker will only be permitted to speak once during the public hearing, unless the Council requests additional clarification or information later in the process. The Chair reserves the right to allow members of the public to speak more than once, but only after all members of the public have been allowed an opportunity to address the Council on the issue before it.

*I don't know what they have to say, it makes no difference anyway, whatever it is,  
I'm against it.* *-- Groucho Marx*

**Avoiding Debate and Argument/Asking for Clarification.** Questions by Council members directed at members of the public who are testifying should seek to clarify or expand information. Council members are encouraged to refrain from engaging speakers in argument, debate, or interrogation. Council members should not engage in public debate with City staff during staff presentations. It is the responsibility of City staff to inform Council about specific details or projects, reasons for recommendations, etc. It is improper for Council members to debate with staff at either public hearings or legislative sessions. Comments, even if framed as a question, expressing personal opinions of the Council member should be withheld until after the public hearing is closed and the matter is properly before the body for deliberation and vote.

**Interrupting a Speaker.** Only the Chair should interrupt a speaker during a presentation, unless the format is specifically stated as intended for spontaneous questions and answers. During a public hearing or public discussion, a Council member may ask the Chair for a point of order if the speaker is deviating from the agenda topic or exhibiting behavior and language that are felt to be unacceptable.

**Attendance of Members.** No member of a governmental body may be excluded from any meeting of the body.

**Meeting Protocol.** A Council member should not address the Council until he/she has been recognized by the Chair.

- When two or more members simultaneously seek recognition, the Chair will name the member who will be permitted to speak first.
- After being recognized, members should address the Chair. Comments should not be directed to a particular Council member.
- Remarks should be confined to the question under discussion.
- Discussion should be made through the member's microphone and directed to the entire Council. Side discussions, phone conversations, or text messages should be avoided during the meetings as all could constitute violations or the appearance of a violation of the Open Meetings Law, which directs that discussions involving the public's business be conducted in public. Such communications if reduced to a record may also be subject to production under the Public Record Law even if produced on a private phone or device.
- No member should be interrupted except by a call for a point of order.
- The Chair will typically permit the member moving the question to speak first on the motion.
- The Chair, out of local standing practice, will often assign a mover and second to the motion on a revolving basis. This is done for efficiency in running the meeting. The motion and second only signify a willingness to place the item before the Council for consideration. The mover and second are not required to ultimately vote in favor of the item proposed. Members can decline the invitation to move or second an item.
- Out of courtesy to their fellow members, the person having received the floor should endeavor to limit the number of times they request recognition to speak on a particular question. "Unless the assembly has a special rule providing otherwise, no member can speak more than twice to the same question on the same day." *Robert's Rules of Order Newly Revised*, 9<sup>th</sup> Ed., pp. 383-384. Consequently, Council members should limit the number of times they address an issue to two.

*The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, and Nineteenth Amendments can mean only one thing – one person, one vote.*  
-- William O. Douglas

## **Voting.**

- The City Clerk calls the roll. Council members should indicate their vote as either aye (yes) or nay (no) or abstain if they have a conflict of interest in the matter under consideration. No other response during voting is permitted.
- All balloting shall be open, except that a secret ballot may be used to elect officers of the governing body (in the City's case, only the office of Vice-President can be filled by secret ballot). § 19.88(1), Wis. Stats.
- Any member may require that the vote of each member be ascertainable (except for election of officers). § 19.88(2), Wis. Stats.
- Roll call votes shall be called and recorded on every ordinance and resolution and may be taken for any matter upon request of a council member. Eau Claire Code § 2.08.070
- Motions and roll call votes are to be recorded, preserved, and open to the public. § 19.88(3), Wis. Stats.

#### 4.6 Open Meetings Law

*“[T]he public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of government business.” § 19.81(1), Wis. Stats.*

**Wisconsin Law: A Policy of Openness.** Council members must conduct their collective works as members of the City Council in public and only after notice of their meetings or other gatherings. If six (6) Council members are together to discuss City matters, whether together physically, by telephone, or by a series of e-mail communications, they are presumptively meeting for purposes of the Open Meetings Law and must stop the discussion until a proper public notice and public location for the meeting can be established.

**Governmental Bodies.** A governmental body includes the City Council and any “agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order,” including any formally constituted subunit thereof. § 19.82(1), Wis. Stats. Certain meetings are expressly excluded from coverage, including a governmental body which is formed for the purpose of collective bargaining for labor purposes; and meetings called by City staff, unless under formal order from Council.

**Meeting.** A meeting is the “convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body.” § 19.82(2), Wis. Stats. If one-half or more members are present (City Council has a 6 member quorum), there is a rebuttable presumption that the gathering is a “meeting.” Even less than half of the members can constitute a “meeting.” A “negative quorum” is the number of members required to defeat an item scheduled to come before the governmental body. A meeting for the purpose of discussing a matter requiring an extraordinary (3/4, 2/3) vote could be as few as three Council members. Even a series of meetings, phone calls, or e-mails between members to discuss board business, if involving as few as three (3) members, is a potential violation of the Open Meetings Law. The Open Meetings Law does provide an exception for social or chance gatherings not intended to avoid the Open Meetings Law. However, please advise the City Manager’s office if you think there is the appearance of a violation at a social gathering so the City Clerk and City Attorney can consider the matter and issue a public notice if warranted.

**Public Notice.** Public notice is provided to inform the public of the meeting topic and location and allow an opportunity to attend and observe as desired any meeting of a public body. Even if the public body has a lawful reason for entering closed session, it must notice the meeting, commence in open session, and only then follow the statutory procedure to move into closed session. A few standards related to public notice are as follows:

- “Every meeting of a governmental body shall be preceded by public notice...” § 19.83(1), Wis. Stats.
- Notice must be provided to news media at least 24 hours before meeting, UNLESS, for “good cause such notice is impossible or impractical,” then at least 2 hours notice must be provided.
- Notice need not be published. It may be given verbally or in writing, although written notice is the normal and better practice. Notice is also posted in City Hall and other public places. Notice must contain “time, date, place and subject matter of the meeting,

including that intended for consideration at any contemplated closed session.” (If subject matter is not included, it cannot be discussed.) § 19.84(2), Wis. Stats.

- Notice must “reasonably apprise” the public of the subject of any closed session, with greater notice required in matters of heightened public interest. *State ex rel. Buswell v. Tomah Area School Dist*, 2007 WI 71, 732 N.W.2d 804.
- Government body cannot commence a meeting, which must always be in open session, convene in closed session, and then reconvene in open session within 12 hours thereafter, unless advance public notice is provided. § 19.85(2), Wis. Stats.

**Closed Session.** Meetings are to be held in open session, except as otherwise explicitly provided by the Open Meetings Law. § 19.83, Wis. Stats. Exemptions include those stated in § 19.85, Wis. Stats., including the following, which are most often used:

- Deliberation of a quasi-judicial hearing. § 19.85(1)(a), Wis. Stats.
- Considering employment matters regarding a public employee over which the board exercises responsibility. § 19.85(1)(c), Wis. Stats.
- Negotiating purchase of property or whenever competitive or bargaining reasons otherwise require confidentiality. § 19.85(1)(e), Wis. Stats.
- Conferring with legal counsel with respect to litigation in which it is or is likely to become involved. § 19.85(1)(g), Wis. Stats.

The following procedures are used to move into closed session:

- Presiding officer announces the nature of the closed session by reading the public notice and statutory justification for closed session.
- Upon motion and second, a majority roll call vote is necessary to proceed to closed session. (Unanimous consent acceptable, but not preferred. *Schaeve*, 370 N.W.2d 271).

Voting in closed session is not expressly authorized by state statute and therefore discouraged, but according to Attorney General Opinion may occur when “clearly an integral part of the deliberations authorized to be conducted in closed sessions.”

- Even if a vote occurs in closed session, public action at the Tuesday legislative session will almost always be required for the City Council to publicly deliberate and vote on final ratification.

Minutes of closed session record attendance, any votes taken, and the time the session begins and ends. As with open session minutes, they are not a verbatim transcription.

- Notice is required to return to open session, as boards cannot meet in open session, convene in closed session, and re-convene in open session within 12 hours thereafter.
- Some meetings must remain in open session (e.g., Board of Review, exchange of initial labor negotiation proposals, or action to ratify a collective bargaining agreement).

**Enforcement and Penalty.** Enforcement of the Open Meetings Law is through the office of the Attorney General or by the district attorney upon a verified complaint. § 19.97(1), Wis. Stats. If a person files a verified complaint and the district attorney does not take action within 20 days, the person may commence the action and recover costs and fees, including attorney fees, if he/she prevails. § 19.97(4), Wis. Stats. A judge may void action taken by the governmental

body in violation of the Open Meetings Law. § 19.97(3), Wis. Stats. Each member in violation is subject to a penalty of \$25 to \$300. § 19.96, Wis. Stats.

**Advice.** Please contact the City Attorney regarding interpretation of the Open Meetings Law. The City Attorney may also consult with the Wisconsin Attorney General's office that provides opinions on the Open Meetings Law to state agencies and municipalities.

*"[A]ll meetings of... local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law." § 19.81(2), Wis. Stats.*

#### **4.7 Rules of Order**

*The chief purpose of parliamentary procedure is to protect the rights of the minority. The majority can usually take care of itself. In a government controlled by public opinion, which we call a democracy, accepted rules of parliamentary procedure are not only of the highest importance, they are the foundation of freedom in every meeting, large or small throughout the nation.*

*-- O. Garfield Jones*

The manner in which Eau Claire City Council meetings are conducted is governed by local ordinance, at times by state law, and absent any conflicting authority, by Roberts Rules of Order. Each Council desk is provided with a copy of Roberts Rules of Order, along with a copy of the City Code of Ordinances. It is difficult to master all the formal rules and procedures for conducting business in a group because the detailed rules are so numerous and hard to remember or retain. To help Council with this process, the handbook contains a copy of Parliamentary Procedure at a Glance, written by O. Garfield Jones, a professor of political science from the University of Toledo. The book arranges the sequence of motions based upon their rank or precedence, not alphabetically, which the Council may find useful as a reference.

**Meeting Chair.** The Council President is the Chair for Council meetings, unless the Vice President or another Council member is designated as Chair for a specific meeting or at a particular point in a meeting. It is the responsibility of the Chair to preserve order during all sessions and decide points of order, subject to appeal to the Council (Sec. 2.08.060, City Code).

**Parliamentary Procedure.** The City Attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedure. The Chair, subject to the appeal of the full Council, makes final rulings on parliamentary procedure.

**Role of the Chair in Maintaining Order.** It is the responsibility of the Chair to keep comments, debate, and discussion of Council members and the public on track during public meetings. Council members should endeavor to assist and support efforts of the Chair to focus discussion on current agenda items and the topic at hand. If there is a disagreement about the agenda or actions of the Chair, those objections should be voiced politely and with reason, using the appropriate procedures.

**Meeting Decorum.** The Council is composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals who represent a broad spectrum of



**Personal Liability for Statutory Violations.** However, some judgments exist which are not reimbursable under these statutes. One is a judgment of forfeiture against the Council member for an Open Meetings Law violation. In that case, the law expressly provides that payment is to be made by the violator without reimbursement from the municipality. Wis. Stats. § 19.96. Such exemptions are rare, however, and usually require the commitment of an intentional or wrongful act.

Another law permits but does not require reimbursement in certain legal actions of costs and expenses incurred in an official's defense. Wis. Stats. § 895.35. These are actions where the official is sued in an official capacity and the action is dismissed, discontinued, or decided in his/her favor, or the officer is reinstated, or where the officer, without fault, is subjected to such personal liability.

A separate area of potential liability is in the area of civil rights. 42 USC 1983. Public officials can be personally sued, either in Federal or state court, for actions that deprive persons of their constitutional rights. However, the courts have granted various types of immunity to local legislators in these types of actions. Under these decisions, Council members are generally held to be absolutely immune when acting in a legislative capacity. While acting in other official capacities, Council members may have only qualified immunity. This means that a member is immune from damages if he/she acts in good faith with a reasonable belief that his/her actions were lawful. (Note, however, that even if good faith exists, this does not immunize the City itself from liability.) Judgments and costs against a Council member for actions taken within the scope of official duties would be absorbed by the City in accordance with Wis. Stats. § 895.46, as noted above.

**City Insurance.** City insurance also provides coverage in the extremely unlikely event of a judgment against a City Council member arising out of his or her official duties. These insurance policies cover all City employees, including Council members, while acting within the scope of their official duties. These coverages are for commercial general liability, business auto, and for public officials' liability for errors and omissions. The City also has an umbrella policy, which provides for increased coverage and limits.

The comprehensive general liability policy covers personal injuries, including property damage. Among other things, this policy covers damages for statements which are defamatory or which are an invasion of privacy. The policy limit is \$5 million per occurrence.

The business auto policy provides coverage to a Council member operating either a personal vehicle or a City vehicle on City business. However, if a personal vehicle is used, coverage is secondary to the Council member's own auto policy. If a City-owned or leased vehicle is used, coverage is primary. The policy has a single limit of \$10 million per occurrence.

The public official liability policy covers injuries other than bodily injury or property damage that are caused by an error or omission. The policy limit is \$5 million per occurrence.

**Summary.** In summary, the law recognizes that public officials cannot properly perform their public duty if they are in continuous fear of being held personally liable for their actions. Accordingly, City Council members are provided with substantial protections against such personal liability. Council members who take official actions in good faith need not worry about being held personally liable for those actions.

#### **4.9     Council Updates / Weekly Calendar of Events**

The City Manager will provide weekly updates of key issues that either arose in the past week or that the Manager believes will soon confront the City or require City Council consideration. You are encouraged to regularly read these updates and contact the City Manager with your comments and questions. The update will also provide Council members a schedule of upcoming events of interest. Please advise the City Manager's office of any of these events you plan to attend, other than standing committee meetings that you can be expected to attend regularly, so the proper public notices can be issued at least 24 hours prior to the meeting.

#### **4.10   Appendix**

- 4.10A Wisconsin Code of Ethics – Wis. Stats. § 19.41 et seq.
- 4.10B “Conflicts of Interest,” The Municipality, June 1995, Curt Witynski.
- 4.10C Wisconsin Public Record Law – Wis. Stats. § 19.21 et seq.
- 4.10D Wisconsin Open Meetings Law – Wis. Stats. § 19.81 et. seq.
- 4.10E “Ten Tips: Using Your Municipal Attorney More Effectively,” The Municipality, April 2001, Claire Silverman.
- 4.10F Resolution: Declaring City of Eau Claire to be in State of Emergency
- 4.10G Proclamation: Declaring City of Eau Claire to be in State of Emergency

## 19.39 GENERAL DUTIES OF PUBLIC OFFICIALS

ity of this subchapter under any circumstances. The attorney general may respond to such a request.

History: 1981 c. 335.

## SUBCHAPTER III

CODE OF ETHICS FOR PUBLIC  
OFFICIALS AND EMPLOYEES

**19.41 Declaration of policy.** (1) It is declared that high moral and ethical standards among state public officials and state employees are essential to the conduct of free government; that the legislature believes that a code of ethics for the guidance of state public officials and state employees will help them avoid conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the people of this state in their state public officials and state employees.

(2) It is the intent of the legislature that in its operations the board shall protect to the fullest extent possible the rights of individuals affected.

History: 1973 c. 90; Stats. 1973 s. 11.01; 1973 c. 334 s. 33; Stats. 1973 s. 19.41; 1977 c. 277.

**19.42 Definitions.** In this subchapter:

(1) "Anything of value" means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the state, fees and expenses which are permitted and reported under s. 19.56, political contributions which are reported under ch. 11, or hospitality extended for a purpose unrelated to state business by a person other than an organization.

(2) "Associated", when used with reference to an organization, includes any organization in which an individual or a member of his or her immediate family is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity or of which an individual or a member of his or her immediate family is an authorized representative or agent.

(3) "Board" means the government accountability board.

(3m) "Candidate," except as otherwise provided, has the meaning given in s. 11.01 (1).

(3s) "Candidate for local public office" means any individual who files nomination papers and a declaration of candidacy under s. 8.21 or who is nominated at a caucus under s. 8.05 (1) for the purpose of appearing on the ballot for election as a local public official or any individual who is nominated for the purpose of appearing on the ballot for election as a local public official through the write-in process or by appointment to fill a vacancy in nomination and who files a declaration of candidacy under s. 8.21.

(4) "Candidate for state public office" means any individual who files nomination papers and a declaration of candidacy under s. 8.21 or who is nominated at a caucus under s. 8.05 (1) for the purpose of appearing on the ballot for election as a state public official or any individual who is nominated for the purpose of appearing on the ballot for election as a state public official through the write-in process or by appointment to fill a vacancy in nomination and who files a declaration of candidacy under s. 8.21.

(4g) "Clearly identified," when used in reference to a communication containing a reference to a person, means one of the following:

(a) The person's name appears.

(b) A photograph or drawing of the person appears.

(c) The identity of the person is apparent by unambiguous reference.

(4r) "Communication" means a message transmitted by means of a printed advertisement, billboard, handbill, sample ballot, radio or television advertisement, telephone call, or any medium that may be utilized for the purpose of disseminating or broadcasting a message, but not including a poll conducted solely for the purpose of identifying or collecting data concerning the attitudes or preferences of electors.

(5) "Department" means the legislature, the University of Wisconsin System, any authority or public corporation created and regulated by an act of the legislature and any office, department, independent agency or legislative service agency created under ch. 13, 14 or 15, any technical college district or any constitutional office other than a judicial office. In the case of a district attorney, "department" means the department of administration unless the context otherwise requires.

(5m) "Elective office" means an office regularly filled by vote of the people.

(6) "Gift" means the payment or receipt of anything of value without valuable consideration.

(7) "Immediate family" means:

(a) An individual's spouse; and

(b) An individual's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the individual or from whom the individual receives, directly or indirectly, more than one-half of his or her support.

(7m) "Income" has the meaning given under section 61 of the internal revenue code.

(7s) "Internal revenue code" has the meanings given under s. 71.01 (6).

(7u) "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, a combination or subunit of any of the foregoing or an instrumentality of the state and any of the foregoing.

(7w) "Local public office" means any of the following offices, except an office specified in sub. (13):

(a) An elective office of a local governmental unit.

(b) A county administrator or administrative coordinator or a city or village manager.

(c) An appointive office or position of a local governmental unit in which an individual serves for a specified term, except a position limited to the exercise of ministerial action or a position filled by an independent contractor.

(cm) The position of member of the board of directors of a local exposition district under subch. II of ch. 229 not serving for a specified term.

(d) An appointive office or position of a local government which is filled by the governing body of the local government or the executive or administrative head of the local government and in which the incumbent serves at the pleasure of the appointing authority, except a clerical position, a position limited to the exercise of ministerial action or a position filled by an independent contractor.

(7x) "Local public official" means an individual holding a local public office.

(8) "Ministerial action" means an action that an individual performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to the exercise of the individual's own judgment as to the propriety of the action being taken.

(9) "Nominee" means any individual who is nominated by the governor for appointment to a state public office and whose nomination requires the advice and consent of the senate.

(10) "Official required to file" means:

(b) A member of a technical college district board or district director of a technical college, or any individual occupying the

position of assistant, associate or deputy district director of a technical college.

(c) A state public official identified under s. 20.923 except an official holding a state public office identified under s. 20.923 (6) (h).

(d) A state public official whose appointment to state public office requires the advice and consent of the senate, except a member of the board of directors of the Bradley Center Sports and Entertainment Corporation created under ch. 232.

(e) An individual appointed by the governor or the state superintendent of public instruction pursuant to s. 17.20 (2) other than a trustee of any private higher educational institution receiving state appropriations.

(f) An auditor for the legislative audit bureau.

(g) The chief clerk and sergeant at arms of each house of the legislature.

(h) The members and employees of the Wisconsin Housing and Economic Development Authority, except clerical employees.

(i) A municipal judge.

(j) A member or the executive director of the judicial commission.

(k) A division administrator of an office created under ch. 14 or a department or independent agency created or continued under ch. 15.

(L) The executive director, executive assistant to the executive director, internal auditor, chief investment officer, chief financial officer, chief legal counsel, chief risk officer and investment directors of the investment board.

(m) The executive director, members and employees of the World Dairy Center Authority, except clerical employees.

(n) The chief executive officer and members of the board of directors of the University of Wisconsin Hospitals and Clinics Authority.

(o) The chief executive officer and members of the board of directors of the Fox River Navigational System Authority.

(q) The executive director and members of the board of directors of the Wisconsin Aerospace Authority.

(r) The employees and members of the board of directors of the Lower Fox River Remediation Authority.

(11) "Organization" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual or body politic.

(11m) "Political party" means a political organization under whose name individuals who seek elective public office appear on the ballot at any election or any national, state, or local unit or affiliate of that organization.

(12) "Security" has the meaning given under s. 551.102 (28), except that the term does not include a certificate of deposit or a deposit in a savings and loan association, savings bank, credit union or similar association organized under the laws of any state.

(13) "State public office" means:

(a) All positions to which individuals are regularly appointed by the governor, except the position of trustee of any private higher educational institution receiving state appropriations and the position of member of the district board of a local professional baseball park district created under subch. III of ch. 229 and the position of member of the district board of a local cultural arts district created under subch. V of ch. 229.

(b) The positions of associate and assistant vice presidents of the University of Wisconsin System and vice chancellors identified in s. 20.923 (5).

(c) All positions identified under s. 20.923 (2), (4), (4g), (6) (f) to (h), (7), and (8) to (10), except clerical positions.

(e) The chief clerk and sergeant at arms of each house of the legislature or a full-time, permanent employee occupying the position of auditor for the legislative audit bureau.

(f) A member of a technical college district board or district director of a technical college, or any position designated as assistant, associate or deputy district director of a technical college.

(g) The members and employees of the Wisconsin Housing and Economic Development Authority, except clerical employees.

(h) A municipal judge.

(i) A member or the executive director of the judicial commission.

(j) A division administrator of an office created under ch. 14 or a department or independent agency created or continued under ch. 15.

(k) The executive director, executive assistant to the executive director, internal auditor, chief investment officer, chief financial officer, chief legal counsel, chief risk officer and investment directors of the investment board.

(L) The members and employees of the World Dairy Center Authority.

(m) The chief executive officer and members of the board of directors of the University of Wisconsin Hospitals and Clinics Authority.

(n) The chief executive officer and members of the board of directors of the Fox River Navigational System Authority.

(14) "State public official" means any individual holding a state public office.

History: 1973 c. 90; Stats. 1973 s. 11.02; 1973 c. 333; 1973 c. 334 ss. 33, 57; Stats. 1973 s. 19.42; 1977 c. 29, 223, 277; 1977 c. 447 ss. 35, 209; 1979 c. 34, 177, 221; 1981 c. 20, 269, 349, 391; 1983 a. 27; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 166 ss. 1 to 4, 16; 1983 a. 484, 538; 1985 a. 26; 1985 a. 29 s. 3202 (46); 1985 a. 304; 1987 a. 72, 119; 1987 a. 312 s. 17; 1987 a. 340, 365, 399, 403; 1989 a. 31, 338; 1991 a. 39, 189, 221, 269; 1993 a. 16, 263, 399; 1995 a. 27, 56, 274; 1997 a. 27; 1997 a. 237 ss. 19m, 722q; 1997 a. 298; 1999 a. 42, 65; 2001 a. 16, 104, 109; 2003 a. 39; 2005 a. 335; 2007 a. 1, 20, 196.

Cross Reference: See also s. GAB 16.02, Wis. adm. code.

Law Revision Committee Note, 1983: This bill establishes consistency in the usage of the terms "person", "individual" and "organization" in the code of ethics for state public officials. The term "person" is the broadest of these terms, and refers to any legal entity. The use of the term "person" in the bill is consistent with the definition of the word in s. 990.01 (26), stats., which provides that "person" includes all partnerships, associations and bodies politic or corporate. The term "organization" is narrower, and is defined in s. 19.42 (11), stats., as "any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual or body politic". "Individual", although not specifically defined in the current statutes or in this bill, is used consistently in this bill to refer to natural persons.

The term "income" is used several times in the code of ethics for state public officials. This bill clarifies the current definition of income by providing a specific cross-reference to the internal revenue code and by providing that the definition refers to the most recent version of the internal revenue code which has been adopted by the legislature for state income tax purposes.

When person holds 2 government positions, one included in and the other exempted from the definition of state public official, the applicability of subch. III depends upon the capacity in which the person acted. 64 Atty. Gen. 143.

**19.43 Financial disclosure.** (1) Each individual who in January of any year is an official required to file shall file with the board no later than April 30 of that year a statement of economic interests meeting each of the requirements of s. 19.44 (1). The information contained on the statement shall be current as of December 31 of the preceding year.

(2) An official required to file shall file with the board a statement of economic interests meeting each of the requirements of s. 19.44 (1) no later than 21 days following the date he or she assumes office if the official has not previously filed a statement of economic interests with the board during that year. The information on the statement shall be current as per the date he or she assumes office.

(3) A nominee shall file with the board a statement of economic interests meeting each of the requirements of s. 19.44 (1) within 21 days of being nominated unless the nominee has previously filed a statement of economic interests with the board during that year. The information on the statement shall be current as per the date he or she was nominated. Following the receipt of a nominee's statement of economic interests, the board shall forward copies of such statement to the members of the committee of the senate to which the nomination is referred.

## Legal Comment

## A Closer Look at



## Conflicts of Interest

by Curt Witynski  
League Legal Counsel

Questions concerning Wisconsin's code of ethics for local officials and other conflict of interest laws arise frequently. Local officials occasionally have difficulty distinguishing between minor and inconsequential conflicts that are an unavoidable part of being an active member of the community and conflicts which are substantial and material and involve self dealing.

To help local officials recognize and deal with conflict of interest problems, this month's comment provides an overview of important conflict of interest laws and discusses a number of sample ethical dilemmas.

#### State Code of Ethics for Local Officials

The state ethics law<sup>1</sup> prohibits local officials from engaging in the following conduct:

1. *Public officials are prohibited from using their offices to obtain financial gain or anything of substantial value for the private benefit of themselves, their immediate families, or organizations with which they are associated.<sup>2</sup>*

An official is "associated" with an organization for purposes of the state ethics law when the individual or a member of the individual's immediate family is an officer, director or trustee, or owns at least 10% of the organization.

An individual is not associated with an organization merely because the individual is a member or employee of an organization or business.<sup>3</sup>

The term "immediate family" means an official's spouse and family members who receive more than one-half of their support from the official or from whom the official receives more than one-half of his or her support.<sup>4</sup>

2. *No public official may receive "anything of value" if it could reasonably be expected to influence the local public official's vote, official action or judgment, or could reasonably be considered as a reward for any official action or inaction.<sup>5</sup>*

The term "anything of value" includes any money, property, favor or service.<sup>6</sup>

With respect to what might be "expected to influence" a local official, the Wisconsin Ethics Board has construed a parallel ethics statute applicable to state officials to mean that a gift of less than \$25 in value could not be reasonably expected to influence an individual's judgment, and that a favor or service from an organization without any special interest in the actions of the public body could not be expected to influence an official affiliated with that body.

*Continued on next page*

\* All noted references will be found at the end of this article (page 230) as Endnotes.

# Conflicts of Interest

*Continued from page 221*

3. *Public officials may not take official action substantially affecting a matter in which the official, an immediate family member, or an organization with which the official is associated has a substantial financial interest.*

*Nor may an official use his or her office in a way that produces or assists in the production of a substantial benefit for the official, immediate family member or organization with which the official is associated.<sup>7</sup>*

The prohibitions under Number 3 above do not apply to lawful payments of expenses, benefits, or reimbursements, or prohibit an official from taking action "to modify" an ordinance.<sup>8</sup>

Also, the Wisconsin Ethics Board has provided guidelines to local officials with respect to when a public official may participate in an action that will affect the official or an organization with which the official is associated.

According to the Board, a local official may take action on matters affecting the official as long as:

(a) the official's action affects a whole class of similarly-situated interests;

(b) neither the official's interest nor the interest of a business or organization with which the official is associated is significant when compared to all affected interests in the class; and

(c) the action's effect on the interests of the official or of the related business or organization is neither significantly greater nor less than upon other members of the class.

The basic test, therefore, appears to be whether the action has a general impact on, or whether the action chiefly benefits, the official, a member of the official's immediate family or an organization with which the official is associated.

Thus, a public official should not participate in or perform any discretionary action with respect to making, granting, or imposing an award, sanction, permit, license, contract, offer of employment or agreement in which the official, a member of the official's immediate family or a business or organization with which the official is associated has a substantial financial

interest.

The Wisconsin Ethics Board suggests that when a matter in which a local official should not participate comes before a body which the official is a member, the official should leave that portion of the body's meeting involving discussion, deliberations, or votes related to the matter.

When, because of a potential conflict of interest, an official withdraws from the body's discussion, deliberation, and vote, the body's minutes should reflect the absence.

Local officials may request advisory ethics opinions from the municipal ethics board or, if there is none, from the municipal attorney. The local ethics board or attorney may issue a written advisory opinion. If the official follows the advice in the opinion, it is

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## *All Officials Must Know State Laws which deal with Code of Ethics, Conflicts of Interest*

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evidence of intent to comply with the law.<sup>9</sup>

Local officials convicted of violating the state ethics law may be required to forfeit up to \$1,000.<sup>10</sup> The law is enforced by the district attorney.<sup>11</sup>

### **Sample Ethical Dilemmas**

#### **1. You are a village trustee.**

A week before Christmas you receive a package at your office from the president of a large corporation whose offices are located in the village.

A card inside says: "You are doing a great job for the village. We wanted you to know that we appreciate it."

You unwrap the package and find a crystal vase worth about \$150. The company has never done any business with the village or sought local legislation that would assist the company. Do you accept the gift?

It would be inadvisable to do so,

since acceptance would very likely constitute a violation of the prohibition against using a public office to obtain anything of substantial value for one's own private benefit.

Also, acceptance might result in violation of the prohibition against receiving anything of value if it could reasonably be expected to influence a public official's vote or could reasonably be considered a reward for taking official action.

While the corporation has not yet had a special interest in any actions before the village board, it may in the near future. Therefore, the gift could be viewed as an attempt to influence your vote on future actions affecting the corporation.

Does it make any difference if the company has given similar gifts to all the other members of the village board? No.

What if the gift had been a 1994 Rose Bowl hat? Accepting such a minor gift of nominal value probably does not pose a problem under the state ethics law.

However, local officials should check to see if their community has adopted a more restrictive local ethics ordinance that would prohibit accepting such a gift.

#### **2. You are a common council member.**

The committee you serve on is reviewing bids that the city has received from a number of computer consulting firms. One of the firms that has submitted a bid is owned by your spouse.

Do you participate in this matter?

No. If you participate in the matter, you will be violating the prohibition against taking any official action affecting a matter in which you, a member of your immediate family or an organization with which you are associated has a substantial financial interest.

At what point should you withdraw from participation? You should excuse yourself from participating in any discussion, deliberations or votes relating to the selection of a computer consultant for the city.

The best way to proceed would be to remove yourself from the committee meeting before the bids are discussed, reviewed and evaluated. Also, the minutes should reflect your absence.

*Continued on next page*

**3. You are a member of a village board.**

The board is considering purchasing two new trucks for hauling solid waste. The manufacturer of a truck you are considering purchasing has invited the entire board to tour its plant in Chicago and view two new trucks just off the line. The company has offered to pay all expenses associated with the trip.

How should the board proceed?

Even though it might be argued that the food, lodging and transportation expenses provided by the company are for the benefit of the village and not for the private benefit of the members of the village board, the better way to proceed in such circumstances would be to have the village cover the trustee's expenses and then allow the company to reimburse the village if it so desires.

**4. You are a member of a common council.**

The council is considering plans and specifications for a major street widening and repair project and a resolution

authorizing special assessments to be levied against abutting property owners to pay for the project. Your home abuts the street that is going to be widened and repaired.

Do you participate in the matter when it comes before the council?

The state ethics code would probably not prohibit you from participating in this matter even though the action affects you and your property. This is because the action will affect a whole class of similarly situated property owners abutting the street project.

Under the ethics law, you may vote on the project as long as your interest is not significant relative to all the affected persons and the action's effect on your property is neither significantly greater nor less than upon other property owners abutting the street project.

**5. You are a village trustee.**

The village board is considering changing the zoning classification of a particular parcel of property. The zoning change is sought by a company

owned by your sister. Do you participate in the matter?

If your sister does not receive more than 50% of her support from you and you do not receive more than 50% of your support from your sister, then the state ethics law would not preclude you from voting on the zoning change. However, your local ethics ordinance or local rules of procedure may be more restrictive and prohibit you from voting on the zoning change.

For example, many municipalities have adopted *Robert's Rules of Order* (Newly Revised) to apply to situations not governed by statutes or local rules of procedure. Section 44 of *Robert's* provides that

*"No member should vote on a question in which he has a direct personal or pecuniary interest not common to other members of the organization."*

The above rule was cited in a fairly recent Wisconsin case where the employee of a business seeking a rezoning abstained from voting as a county

*Continued on next page*

## Conflicts of Interest

*Continued from page 223*

supervisor on the matter.<sup>12</sup> The court concluded that had the employee-supervisor voted on the ordinance, his vote would have been disqualified.

However, had the state ethics law existed at that time, no violation of its provisions would have occurred had the employee-supervisor voted on the zoning change.

### Private Financial Interest in a Public Contract

Whenever a local official has a personal financial interest in a proposed municipal contract (e.g., real estate contracts, contracts for goods, services, and construction), the official must be aware of violating sec. 946.13, Stats.<sup>13</sup> This criminal statute has two prohibitions.

#### 1. Prohibition Against Official Action.

A public official may not participate in the making of a municipal contract in his or her official capacity if the official has a direct or indirect financial interest in the contract.<sup>14</sup>

Since this is a prohibition on official action, abstaining from voting on the contract will prevent violation.

#### 2. Prohibition Against Private Action.

A public official may not in his or her private capacity negotiate or bid for or enter into a contract in which the public official has a direct or indirect financial interest if the official is "authorized or required by law to participate in his capacity as such officer or employee in the making of that contract."<sup>15</sup>

Abstaining from voting will *not* prevent a violation here if the public officer is authorized to vote on the contract.

It should be stressed, therefore, that this provision can be violated when the interested official takes no official action and even if the contract is not ultimately awarded to the entity in which the official has a private financial interest.

Thus, in some cases officials may have to decide between doing business with their municipality and remaining in office. Fortunately, the law contains various exceptions to these prohibi-

tions.

Most notably, the law allows public officials to do a total of \$7,500 worth of business (total receipts and disbursements under all contracts with the municipality) in a year.<sup>16</sup>

Violation of sec. 946.13 is a Class E felony and subjects the person to a fine of not more than \$10,000, imprisonment for not more than 2 years, or both.<sup>17</sup>

### Sample Pecuniary Interest Problems

#### 1. You were just elected to the common council.

A week before the election, your company, Recycle World, entered into a two-year contract with the city to provide bins for collecting recyclable materials at a number of drop-off sites around the city. The contract totals \$30,000. Must you resign in order to avoid violating sec. 946.13(1)(a)?

Not necessarily. Since the contract was negotiated, bid for, and entered into before the time you were elected to office and became authorized to participate as a public official in the making

of the contract, there is no violation of sec. 946.13.

However, if you renegotiate the current contract while in office, you would be in violation of the statute. Also, your company may not negotiate, bid for, or enter into a new contract with the municipality as long as you remain a member of the council.<sup>18</sup>

**2. You are a member of the utility commission.**

The commission wants to buy a truck and is in the process of obtaining price quotes from various truck dealers in the area on a particular type of truck. The vehicle dealership you are employed by as a sales representative has submitted a quote.

However, you were not involved in calculating the quote or presenting the quote to the village. If you abstain from voting on the matter when it comes before the commission, have you avoided violating sec. 946.13?

Yes. You have avoided violating the prohibition on official action by abstaining from voting on the matter

and you have avoided violating the prohibition on private action by not being personally involved in calculating and presenting the price quote to the village.

As long as you abstain from voting and avoid any private involvement in the sale, there is no violation of the statute merely due to the fact that you are an employee of the dealership.<sup>19</sup>

**3. You are a member of the village board. You also own the only hardware store in the village.**

The village regularly purchases supplies from the store. You always abstain from voting on bills and claims relating to your store. Last year total sales to the village amounted to \$6,800. This year, sales to the village are approaching \$8,000 dollars. Did you violate sec. 946.13 last year?

No. You are allowed to do a total of \$7,500 worth of business with the municipality in a year.

Are you in violation of sec. 946.13 this year?

Yes. You have exceeded the \$7,500 exception.

While abstention will protect you from violating the prohibition on official action on a contract where you have a financial interest, it will not prevent you from violating the provision prohibiting private involvement in a contract where you have official authority to act.

**4. You are the mayor of your city.**

You own several acres of land next to vacant property that the city owns and is attempting to sell. The city has publicly announced that it is accepting bids on the parcel. You submit a bid for \$90,000 which turns out to be the highest.

However, before your offer to purchase is accepted by the city, you withdraw it on the advice of counsel. Have you violated sec. 946.13?

Yes. Remember, sec. 946.13(1)(a) prohibits a public official from merely negotiating or bidding for a contract in which the official has a financial interest.

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## Conflicts of Interest

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est if the official is authorized to participate in his official capacity in the making of the contract.

Here, you have submitted a bid to purchase municipally owned property while being authorized to exercise official discretion with regard to the contract. This constitutes a violation of the statute and it does not matter that you have withdrawn your offer before it was accepted.

### 5. You are the village president.

Your spouse and his brother own a general contracting firm. You do not have any ownership interest in the business.

Your spouse's company has submitted the low bid on a village sidewalk project. The contract totals \$87,000. You have not participated in any discussions or votes concerning the sidewalk contract with your spouse's company. Have you, nevertheless, violated sec. 946.13?

No. You avoided violating the prohibition on official action by abstaining from voting on the contract.

You did not violate the prohibition on private action because you have no ownership interest in your spouse's construction company and you were

not privately involved in bidding on the contract on behalf of your spouse's construction firm.

Even though you have a pecuniary interest in a contract involving your spouse's firm, there is no violation of sec. 946.13 if there is no personal private action or public exercise of discretion with regard to the contract on your part.<sup>20</sup>

### Compatibility of Offices and Positions

The law of compatibility recognizes a conflict of interest concerning holding two municipal offices or a municipal office and a municipal job.

In an important case, *Otradovec v. City of Green Bay*<sup>21</sup>, the court stated that the same person cannot hold two offices or an office and a position where one post is superior to the other or where, from a public policy perspective, it is improper for one person to discharge the duties of both posts. The *Otradovec* court held that a member of the Green Bay common council could not work as assistant appraiser in the city assessor's office.

Under the doctrine of incompatibility, if a second office is taken that is incompatible with an existing office, the first office is vacated. The law is not so clear regarding the holding of an

incompatible office and position.

While it is clear that one job must be given up, the law is not clear as to whether the first job is automatically vacated or whether a court may allow a person to choose between the office and position.

A good rule of thumb for governing body members to follow is that they cannot hold other offices or positions for the same municipality, unless specifically authorized.

The incompatibility doctrine does not prevent governing body members from doing business with their municipalities.

For example, a governing body member could, as an independent contractor, do municipal work, subject to the \$7,500 ceiling mentioned above.

There are a number of statutory exceptions to the common law doctrine of incompatibility. Governing body members are expressly authorized to serve on local boards and commissions, as long as they receive no additional remuneration.<sup>22</sup>

Also, elected public officials may serve as EMT's and volunteer firefighters for their municipalities, as long as total compensation, including fringe benefits does not exceed \$2,500 per year.

A statutory provision, sec. 66.11(2), is related to the common law doctrine of incompatibility. It limits the eligibility of governing body members for municipal jobs. This statute provides that governing body members:

- May not, during their term of office, be appointed to a newly created job, even if they resign prior to appointment.
- May be appointed to an office or position which was not created during the member's term of office, as long as the member resigns first.
- May run at any time for new or existing elective office during their term, but the incompatibility doctrine applies if the member is elected and takes the new office.
- May be appointed to serve on local boards and commissions (e.g., library board, police and fire commission and plan commission) where no additional remuneration is paid to such officers.

#### **Sample Incompatibility of Office Problems**

1. A member of the municipal library staff has won a seat on the common council. May that person continue to work for the library while serving on the common council?

No. The fact that the library board comes between the librarian and the common council does not remove the incompatibility problem. This is because the common council controls the

amount of money the city appropriates to the library board and confirms appointments to the library board.

Thus, a person who is an employee of the library and who simultaneously sits on the common council can exercise ultimate control over his or her employer, the library board, through controlling the level of funding and the appointments to the board.

2. You are a member of the village board. The board has just created the position of assistant electrical inspector. You are qualified for the position. May you apply for the position after resigning from the board?

No. Since the position was created during your term of office you are ineligible for it until your term of office expires.

3. You are a village trustee. You also own and operate a snowplowing business. You recently entered into a

\$5000 contract to provide snowplowing services for the village. You did not vote on the contract when it was approved by the village board. Have you violated the doctrine of incompatibility?

No. The doctrine of incompatibility does not prevent governing body members from doing business with their municipalities as independent contractors, subject to the \$7,500 ceiling in sec. 946.13.

4. You have served as a member of your village's volunteer fire department for 10 years. You have received, on average, \$1,000 a year for your services. You have just been elected to the village board. Must you resign from the volunteer fire department?

No. Section 66.11(4) allows governing body members to serve as volunteer firefighters for their municipali-

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## Conflicts of Interest

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ties, as long as the total compensation they receive does not exceed \$2,500.<sup>23</sup>

### Conclusion

The subjects dealt with in this article have been addressed by the League legal staff at New Officials Workshops, ETN programs and in various handbooks and other writings over the years.

It is hoped that this overview of important conflict of interest laws and discussion of hypothetical fact situations will help local officials be better able to recognize and avoid potential conflict of interest problems.

(Pecuniary Interest #373)

### Endnotes

<sup>1</sup> Sec. 19.59, Stats. For a further discussion of the state ethics law see the legal comments in the October and December 1991 issues of the Municipality.

<sup>2</sup> Sec. 19.59(1)(a), Stats.

<sup>3</sup> Sec. 19.42(2), Stats.

<sup>4</sup> Sec. 19.42(7), Stats.

<sup>5</sup> Sec. 19.59(1)(b), Stats.

<sup>6</sup> Sec. 19.42(1), Stats.

<sup>7</sup> Sec. 19.59(1)(c), Stats.

<sup>8</sup> Sec. 19.59(1)(d), Stats.

<sup>9</sup> Sec. 19.59(5)(a), Stats.

<sup>10</sup> Sec. 19.59(7), Stats.

<sup>11</sup> Sec. 19.59(8), Stats.

<sup>12</sup> See *Ballenger v. Door County*, 131 Wis.2d 422, 388 N.W.2d 624 (Ct. App. 1986).

<sup>13</sup> For more information on the pecuniary interest statute see the legal comment in the July 1991 issue of the Municipality.

<sup>14</sup> Sec. 946.13(1)(b), Stats.

<sup>15</sup> Sec. 946.13(1)(a), Stats.

<sup>16</sup> Sec. 946.13(2)(a), Stats.

<sup>17</sup> Sec. 939.50(3)(c), Stats.

<sup>18</sup> *Pecuniary Interest #368*

<sup>19</sup> See 75 OAG 172 (1986); *Pecuniary Interest #358 & #364*.

<sup>20</sup> See 76 OAG 15 (1987); *Pecuniary Interest #356*.

<sup>21</sup> 118 Wis.2d 393, 347 N.W.2d 614 (Ct. App. 1984). For an in depth discussion of compatibility law see the legal comment in the March 1988 issue of the Municipality.

<sup>22</sup> Sec. 66.11(2), Stats.

<sup>23</sup> Sec. 66.11(4), Stats.

**19.11 GENERAL DUTIES OF PUBLIC OFFICIALS**

Updated 13–14 Wis. Stats. 4

treasurer shall give an additional bond, when required by the governor.

(4) The governor shall require the treasurer to give additional bond, within such time, in such reasonable amount not exceeding the funds in the treasury, and with such security as the governor shall direct and approve, whenever the funds in the treasury exceed the amount of the treasurer's bond; or whenever the governor deems the treasurer's bond insufficient by reason of the insolvency, death or removal from the state of any of the sureties, or from any other cause.

History: 1975 c. 375 s. 44; 1991 a. 316.

**19.12 Bond premiums payable from public funds.** Any public officer required by law to give a suretyship obligation may pay the lawful premium for the execution of the obligation out of any moneys available for the payment of expenses of the office or department, unless payment is otherwise provided for or is prohibited by law.

History: 1977 c. 339.

**SUBCHAPTER II****PUBLIC RECORDS AND PROPERTY**

**19.21 Custody and delivery of official property and records.** (1) Each and every officer of the state, or of any county, town, city, village, school district, or other municipality or district, is the legal custodian of and shall safely keep and preserve all property and things received from the officer's predecessor or other persons and required by law to be filed, deposited, or kept in the officer's office, or which are in the lawful possession or control of the officer or the officer's deputies, or to the possession or control of which the officer or the officer's deputies may be lawfully entitled, as such officers.

(2) Upon the expiration of each such officer's term of office, or whenever the office becomes vacant, the officer, or on the officer's death the officer's legal representative, shall on demand deliver to the officer's successor all such property and things then in the officer's custody, and the officer's successor shall receipt therefor to said officer, who shall file said receipt, as the case may be, in the office of the secretary of state, county clerk, town clerk, city clerk, village clerk, school district clerk, or clerk or other secretarial officer of the municipality or district, respectively; but if a vacancy occurs before such successor is qualified, such property and things shall be delivered to and be receipted for by such secretary or clerk, respectively, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

(3) Any person who violates this section shall, in addition to any other liability or penalty, civil or criminal, forfeit not less than \$25 nor more than \$2,000; such forfeiture to be enforced by a civil action on behalf of, and the proceeds to be paid into the treasury of the state, municipality, or district, as the case may be.

(4) (a) Any city council, village board or town board may provide by ordinance for the destruction of obsolete public records. Prior to the destruction at least 60 days' notice in writing of such destruction shall be given the historical society which shall preserve any such records it determines to be of historical interest. The historical society may, upon application, waive such notice. No assessment roll containing forest crop acreage may be destroyed without prior approval of the secretary of revenue. This paragraph does not apply to school records of a 1st class city school district.

(b) The period of time any town, city or village public record is kept before destruction shall be as prescribed by ordinance unless a specific period of time is provided by statute. The period prescribed in the ordinance may not be less than 2 years with respect to water stubs, receipts of current billings and customer's ledgers of any municipal utility, and 7 years for other records unless a shorter period has been fixed by the public records board

under s. 16.61 (3) (e) and except as provided under sub. (7). This paragraph does not apply to school records of a 1st class city school district.

(c) Any local governmental unit or agency may provide for the keeping and preservation of public records kept by that governmental unit through the use of microfilm or another reproductive device, optical imaging or electronic formatting. A local governmental unit or agency shall make such provision by ordinance or resolution. Any such action by a subunit of a local governmental unit or agency shall be in conformity with the action of the unit or agency of which it is a part. Any photographic reproduction of a record authorized to be reproduced under this paragraph is deemed an original record for all purposes if it meets the applicable standards established in ss. 16.61 (7) and 16.612. This paragraph does not apply to public records kept by counties electing to be governed by ch. 228.

(cm) Paragraph (c) does not apply to court records kept by a clerk of circuit court and subject to SCR chapter 72.

(5) (a) Any county having a population of 500,000 or more may provide by ordinance for the destruction of obsolete public records, except for court records subject to SCR chapter 72.

(b) Any county having a population of less than 500,000 may provide by ordinance for the destruction of obsolete public records, subject to s. 59.52 (4) (b) and (c), except for court records governed by SCR chapter 72.

(c) The period of time any public record shall be kept before destruction shall be determined by ordinance except that in all counties the specific period of time expressed within s. 7.23 or 59.52 (4) (a) or any other law requiring a specific retention period shall apply. The period of time prescribed in the ordinance for the destruction of all records not governed by s. 7.23 or 59.52 (4) (a) or any other law prescribing a specific retention period may not be less than 7 years, unless a shorter period is fixed by the public records board under s. 16.61 (3) (e).

(d) 1. Except as provided in subd. 2., prior to any destruction of records under this subsection, except those specified within s. 59.52 (4) (a), at least 60 days' notice of such destruction shall be given in writing, to the historical society, which may preserve any records it determines to be of historical interest. Notice is not required for any records for which destruction has previously been approved by the historical society or in which the society has indicated that it has no interest for historical purposes. Records which have a confidential character while in the possession of the original custodian shall retain such confidential character after transfer to the historical society unless the director of the historical society, with the concurrence of the original custodian, determines that such records shall be made accessible to the public under such proper and reasonable rules as the historical society promulgates.

2. Subdivision 1. does not apply to patient health care records, as defined in s. 146.81 (4), that are in the custody or control of a local health department, as defined in s. 250.01 (4).

(e) The county board of any county may provide, by ordinance, a program for the keeping, preservation, retention and disposition of public records including the establishment of a committee on public records and may institute a records management service for the county and may appropriate funds to accomplish such purposes.

(f) District attorney records are state records and are subject to s. 978.07.

(6) A school district may provide for the destruction of obsolete school records. Prior to any such destruction, at least 60 days' notice in writing of such destruction shall be given to the historical society, which shall preserve any records it determines to be of historical interest. The historical society may, upon application, waive the notice. The period of time a school district record shall be kept before destruction shall be not less than 7 years, unless a shorter period is fixed by the public records board under s. 16.61

(3) (e) and except as provided under sub. (7). This section does not apply to pupil records under s. 118.125.

(7) Notwithstanding any minimum period of time for retention set under s. 16.61 (3) (e), any taped recording of a meeting, as defined in s. 19.82 (2), by any governmental body, as defined under s. 19.82 (1), of a city, village, town or school district may be destroyed no sooner than 90 days after the minutes have been approved and published if the purpose of the recording was to make minutes of the meeting.

(8) Any metropolitan sewerage commission created under ss. 200.21 to 200.65 may provide for the destruction of obsolete commission records. No record of the metropolitan sewerage district may be destroyed except by action of the commission specifically authorizing the destruction of that record. Prior to any destruction of records under this subsection, the commission shall give at least 60 days' prior notice of the proposed destruction to the state historical society, which may preserve records it determines to be of historical interest. Upon the application of the commission, the state historical society may waive this notice. Except as provided under sub. (7), the commission may only destroy a record under this subsection after 7 years elapse from the date of the record's creation, unless a shorter period is fixed by the public records board under s. 16.61 (3) (e).

**History:** 1971 c. 215; 1975 c. 41 s. 52; 1977 c. 202; 1979 c. 35, 221; 1981 c. 191, 282, 335; 1981 c. 350 s. 13; 1981 c. 391; 1983 a. 532; 1985 a. 180 ss. 22, 30m; 1985 a. 225; 1985 a. 332 s. 251 (1); Sup. Ct. Order, 136 Wis. 2d xi (1987); 1987 a. 147 ss. 20, 25; 1989 a. 248; 1991 a. 39, 185, 316; 1993 a. 27, 60, 172; 1995 a. 27, 201; 1999 a. 150 s. 672.

Sub. (1) provides that a police chief, as an officer of a municipality, is the legal custodian of all records of that officer's department. *Town of LaGrange v. Auchinleck*, 216 Wis. 2d 84, 573 N.W.2d 232 (Ct. App. 1997), 96–3313.

This section relates to records retention and is not a part of the public records law. An agency's alleged failure to keep sought-after records may not be attacked under the public records law. *Gehl v. Connors*, 2007 WI App 238, 306 Wis. 2d 247, 742 N.W.2d 530, 06–2455.

Under sub. (1), district attorneys must indefinitely preserve papers of a documentary nature evidencing activities of prosecutor's office. 68 Atty. Gen. 17.

A county with a population under 500,000 may by ordinance under s. 19.21 (6), [now s. 19.21 (5)] provide for the destruction of obsolete case records maintained by the county social services agency under s. 48.59 (1). 70 Atty. Gen. 196.

A VTAE (technical college) district is a "school district" under s. 19.21 (7) [now s. 19.21 (6)]. 71 Atty. Gen. 9.

**19.22 Proceedings to compel the delivery of official property.** (1) If any public officer refuses or neglects to deliver to his or her successor any official property or things as required in s. 19.21, or if the property or things shall come to the hands of any other person who refuses or neglects, on demand, to deliver them to the successor in the office, the successor may make complaint to any circuit judge for the county where the person refusing or neglecting resides. If the judge is satisfied by the oath of the complainant and other testimony as may be offered that the property or things are withheld, the judge shall grant an order directing the person so refusing to show cause, within some short and reasonable time, why the person should not be compelled to deliver the property or things.

(2) At the time appointed, or at any other time to which the matter may be adjourned, upon due proof of service of the order issued under sub. (1), if the person complained against makes affidavit before the judge that the person has delivered to the person's successor all of the official property and things in the person's custody or possession pertaining to the office, within the person's knowledge, the person complained against shall be discharged and all further proceedings in the matter before the judge shall cease.

(3) If the person complained against does not make such affidavit the matter shall proceed as follows:

(a) The judge shall inquire further into the matters set forth in the complaint, and if it appears that any such property or things are withheld by the person complained against the judge shall by warrant commit the person complained against to the county jail, there to remain until the delivery of such property and things to the complainant or until the person complained against be otherwise discharged according to law.

(b) If required by the complainant the judge shall also issue a warrant, directed to the sheriff or any constable of the county, commanding the sheriff or constable in the daytime to search such places as shall be designated in such warrant for such official property and things as were in the custody of the officer whose term of office expired or whose office became vacant, or of which the officer was the legal custodian, and seize and bring them before the judge issuing such warrant.

(c) When any such property or things are brought before the judge by virtue of such warrant, the judge shall inquire whether the same pertain to such office, and if it thereupon appears that the property or things pertain thereto the judge shall order the delivery of the property or things to the complainant.

**History:** 1977 c. 449; 1991 a. 316; 1993 a. 213.

**19.23 Transfer of records or materials to historical society.** (1) Any public records, in any state office, that are not required for current use may, in the discretion of the public records board, be transferred into the custody of the historical society, as provided in s. 16.61.

(2) The proper officer of any county, city, village, town, school district or other local governmental unit, may under s. 44.09 (1) offer title and transfer custody to the historical society of any records deemed by the society to be of permanent historical importance.

(3) The proper officer of any court may, on order of the judge of that court, transfer to the historical society title to such court records as have been photographed or microphotographed or which have been on file for at least 75 years, and which are deemed by the society to be of permanent historical value.

(4) Any other articles or materials which are of historic value and are not required for current use may, in the discretion of the department or agency where such articles or materials are located, be transferred into the custody of the historical society as trustee for the state, and shall thereupon become part of the permanent collections of said society.

**History:** 1975 c. 41 s. 52; 1981 c. 350 s. 13; 1985 a. 180 s. 30m; 1987 a. 147 s. 25; 1991 a. 226; 1995 a. 27.

**19.24 Refusal to deliver money, etc., to successor.** Any public officer whatever, in this state, who shall, at the expiration of the officer's term of office, refuse or willfully neglect to deliver, on demand, to the officer's successor in office, after such successor shall have been duly qualified and be entitled to said office according to law, all moneys, records, books, papers or other property belonging to the office and in the officer's hands or under the officer's control by virtue thereof, shall be imprisoned not more than 6 months or fined not more than \$100.

**History:** 1991 a. 316.

**19.25 State officers may require searches, etc., without fees.** The secretary of state, treasurer and attorney general, respectively, are authorized to require searches in the respective offices of each other and in the offices of the clerk of the supreme court, of the court of appeals, of the circuit courts, of the registers of deeds for any papers, records or documents necessary to the discharge of the duties of their respective offices, and to require copies thereof and extracts therefrom without the payment of any fee or charge whatever.

**History:** 1977 c. 187, 449.

**19.31 Declaration of policy.** In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them. Further, providing persons with such information is declared to be an essential function of a representative government and an integral part of the routine duties of officers and employees whose responsibility it is to provide such information. To that end, ss. 19.32 to 19.37 shall be construed in every instance with a presumption of complete public access, con-

sistent with the conduct of governmental business. The denial of public access generally is contrary to the public interest, and only in an exceptional case may access be denied.

**History:** 1981 c. 335, 391.

An agency cannot promulgate an administrative rule that creates an exception to the open records law. *Chavala v. Bubolz*, 204 Wis. 2d 82, 552 N.W.2d 892 (Ct. App. 1996), 95–3120.

Although the requester referred to the federal freedom information act, a letter that clearly described open records and had all the earmarkings of an open records request was in fact an open records request and triggered, at minimum, a duty to respond. *ECO, Inc. v. City of Elkhorn*, 2002 WI App 302, 259 Wis. 2d 276, 655 N.W.2d 510, 02–0216.

The public records law addresses the duty to disclose records; it does not address the duty to retain records. An agency's alleged failure to keep sought-after records may not be attacked under the public records law. Section 19.21 relates to records retention and is not a part of the public records law. *Gehl v. Connors*, 2007 WI App 238, 306 Wis. 2d 247, 742 N.W.2d 530, 06–2455.

The Wisconsin public records law. 67 MLR 65 (1983).

Municipal responsibility under the Wisconsin revised public records law. *Maloney*. WBB Jan. 1983.

The public records law and the Wisconsin department of revenue. *Boykoff*. WBB Dec. 1983.

The Wis. open records act: an update on issues. *Trubek and Foley*. WBB Aug. 1986.

Toward a More Open and Accountable Government: A Call For Optimal Disclosure Under the Wisconsin Open Records Law. *Roang*. 1994 WLR 719.

Wisconsin's Public-Records Law: Preserving the Presumption of Complete Public Access in the Age of Electronic Records. *Holcomb & Isaac*. 2008 WLR 515.

Getting the Best of Both Worlds: Open Government and Economic Development. *Westerberg*. Wis. Law. Feb. 2009.

### 19.32 Definitions. As used in ss. 19.32 to 19.39:

(1) "Authority" means any of the following having custody of a record: a state or local office, elective official, agency, board, commission, committee, council, department or public body corporate and politic created by the constitution or by any law, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a special purpose district; any court of law; the assembly or senate; a nonprofit corporation which receives more than 50% of its funds from a county or a municipality, as defined in s. 59.001 (3), and which provides services related to public health or safety to the county or municipality; a university police department under s. 175.42; or a formally constituted subunit of any of the foregoing.

**NOTE:** Sub. (1) is shown as affected by 2013 Wis. Acts 171 and 265 and as merged by the legislative reference bureau under s. 13.92 (2) (f).

(1b) "Committed person" means a person who is committed under ch. 51, 971, 975 or 980 and who is placed in an inpatient treatment facility, during the period that the person's placement in the inpatient treatment facility continues.

(1bd) "Elective official" means an individual who holds an office that is regularly filled by vote of the people.

(1bg) "Employee" means any individual who is employed by an authority, other than an individual holding local public office or a state public office, or any individual who is employed by an employer other than an authority.

(1c) "Incarcerated person" means a person who is incarcerated in a penal facility or who is placed on probation and given confinement under s. 973.09 (4) as a condition of placement, during the period of confinement for which the person has been sentenced.

(1d) "Inpatient treatment facility" means any of the following:

(a) A mental health institute, as defined in s. 51.01 (12).

(c) A facility or unit for the institutional care of sexually violent persons specified under s. 980.065.

(d) The Milwaukee County mental health complex established under s. 51.08.

(1de) "Local governmental unit" has the meaning given in s. 19.42 (7u).

(1dm) "Local public office" has the meaning given in s. 19.42 (7w), and also includes any appointive office or position of a local governmental unit in which an individual serves as the head of a department, agency, or division of the local governmental unit,

but does not include any office or position filled by a municipal employee, as defined in s. 111.70 (1) (i).

(1e) "Penal facility" means a state prison under s. 302.01, county jail, county house of correction or other state, county or municipal correctional or detention facility.

(1m) "Person authorized by the individual" means the parent, guardian, as defined in s. 48.02 (8), or legal custodian, as defined in s. 48.02 (11), of an individual who is a child, as defined in s. 48.02 (2); the guardian of an individual adjudicated incompetent in this state; the personal representative or spouse of an individual who is deceased; or any person authorized, in writing, by an individual to act on his or her behalf.

(1r) "Personally identifiable information" has the meaning specified in s. 19.62 (5).

(2) "Record" means any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes, optical disks, and any other medium on which electronically generated or stored data is recorded or preserved. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

(2g) "Record subject" means an individual about whom personally identifiable information is contained in a record.

(3) "Requester" means any person who requests inspection or copies of a record, except a committed or incarcerated person, unless the person requests inspection or copies of a record that contains specific references to that person or his or her minor children for whom he or she has not been denied physical placement under ch. 767, and the record is otherwise accessible to the person by law.

(3m) "Special purpose district" means a district, other than a state governmental unit or a county, city, village, or town, that is created to perform a particular function and whose geographic jurisdiction is limited to some portion of this state.

(4) "State public office" has the meaning given in s. 19.42 (13), but does not include a position identified in s. 20.923 (6) (f) to (gm).

**History:** 1981 c. 335; 1985 a. 26, 29, 332; 1987 a. 305; 1991 a. 39, 1991 a. 269 ss. 26pd, 33b; 1993 a. 215, 263, 491; 1995 a. 158; 1997 a. 79, 94; 1999 a. 9; 2001 a. 16; 2003 a. 47; 2005 a. 387; 2007 a. 20; 2013 a. 171, 265; s. 13.92 (2) (f).

**NOTE:** 2003 Wis. Act 47, which affects this section, contains extensive explanatory notes.

A study commissioned by the corporation counsel and used in various ways was not a "draft" under sub. (2), although it was not in final form. A document prepared other than for the originator's personal use, although in preliminary form or marked "draft," is a record. *Fox v. Bock*, 149 Wis. 2d 403, 438 N.W.2d 589 (1989).

A settlement agreement containing a pledge of confidentiality and kept in the possession of a school district's attorney was a public record subject to public access. *Journal/Sentinel v. Shorewood School Bd.* 186 Wis. 2d 443, 521 N.W.2d 165 (Ct. App. 1994).

Individuals confined as sexually violent persons under ch. 980 are not "incarcerated" under sub. (1c). *Klein v. Wisconsin Resource Center*, 218 Wis. 2d 487, 582 N.W.2d 44 (Ct. App. 1998), 97–0679.

A nonprofit corporation that receives 50% of its funds from a municipality or county is an authority under sub. (1) regardless of the source from which the municipality or county obtained those funds. *Cavey v. Walrath*, 229 Wis. 2d 105, 598 N.W.2d 240 (Ct. App. 1999), 98–0072.

A person aggrieved by a request made under the open records law has standing to raise a challenge that the requested materials are not records because they fall within the exception for copyrighted material under sub. (2). Under the facts of this case, the language of sub. (2), when viewed in light of the fair use exception to copyright infringement, applied so that the disputed materials were records within the statutory definition. *Zellner v. Cedarburg School District*, 2007 WI 53, 300 Wis. 2d 290, 731 N.W.2d 240, 06–1143.

"Record" in sub. (2) and s. 19.35 (5) does not include identical copies of otherwise available records. A copy that is not different in some meaningful way from an original, regardless of the form of the original, is an identical copy. If a copy differs in

some significant way for purposes of responding to an open records request, then it is not truly an identical copy, but instead a different record. *Stone v. Board of Regents of the University of Wisconsin*, 2007 WI App 223, 305 Wis. 2d 679, 741 N.W.2d 774, 06–2537.

A municipality's independent contractor assessor was not an authority under sub. (1) and was not a proper recipient of an open records request. In this case, only the municipalities themselves were the "authorities" for purposes of the open records law. Accordingly, only the municipalities were proper recipients of the relevant open records requests. *WIREdata, Inc. v. Village of Sussex*, 2008 WI 69, 310 Wis. 2d 397, 751 N.W.2d 736, 05–1473.

A corporation is quasi-governmental if, based on the totality of circumstances, it resembles a governmental corporation in function, effect, or status, requiring a case-by-case analysis. Here, a primary consideration was that the body was funded exclusively by public tax dollars or interest thereon. Additionally, its office was located in the municipal building, it was listed on the city Web site, the city provided it with clerical support and office supplies, all its assets revert to the city if it ceases to exist, its books are open for city inspection, the mayor and another city official are directors, and it had no clients other than the city. *State v. Beaver Dam Area Development Corporation*, 2008 WI 90, 312 Wis. 2d 84, 752 N.W.2d 295, 06–0662.

Employees' personal emails were not subject to disclosure in this case. *Schill v. Wisconsin Rapids School District*, 2010 WI 86, 327 Wis. 2d 572, 786 N.W.2d 177, 08–0967.

Redacted portions of emails, who sent the emails, and where they were sent from were not "purely personal" and therefore subject to disclosure. Public awareness of who is attempting to influence public policy is essential for effective oversight of our government. Whether a communication is sent to a public official from a source that appears associated with a particular unit of government, a private entity, or a nonprofit organization, or from individuals who may be associated with a specific interest or particular area of the state, from where a communication is sent further assists the public in understanding who is attempting to influence public policy and why. *The John K. MacIver Institute for Public Policy, Inc. v. Erpenbach*, 2014 WI App 49, 354 Wis. 2d 61, 848 N.W.2d 862, 13–1187.

To be a "quasi-governmental corporation" under sub. (1) an entity must first be a corporation. To hold that the term "quasi-governmental corporation" includes an entity that is not a corporation would effectively rewrite the statute to eliminate the legislature's use of the word corporation. *Wisconsin Professional Police Association, Inc. v. Wisconsin Counties Association*, 2014 WI App 106, \_\_\_ Wis. 2d \_\_\_, \_\_\_ N.W.2d \_\_\_, 14–0249.

"Records" must have some relation to the functions of the agency. 72 Atty. Gen. 99.

The treatment of drafts under the public records law is discussed. 77 Atty. Gen. 100.

Applying Open Records Policy to Wisconsin District Attorneys: Can Charging Guidelines Promote Public Awareness? Mayer. 1996 WLR 295.

**19.33 Legal custodians.** (1) An elective official is the legal custodian of his or her records and the records of his or her office, but the official may designate an employee of his or her staff to act as the legal custodian.

(2) The chairperson of a committee of elective officials, or the designee of the chairperson, is the legal custodian of the records of the committee.

(3) The cochairpersons of a joint committee of elective officials, or the designee of the cochairpersons, are the legal custodians of the records of the joint committee.

(4) Every authority not specified in subs. (1) to (3) shall designate in writing one or more positions occupied by an officer or employee of the authority or the unit of government of which it is a part as a legal custodian to fulfill its duties under this subchapter. In the absence of a designation the authority's highest ranking officer and the chief administrative officer, if any, are the legal custodians for the authority. The legal custodian shall be vested by the authority with full legal power to render decisions and carry out the duties of the authority under this subchapter. Each authority shall provide the name of the legal custodian and a description of the nature of his or her duties under this subchapter to all employees of the authority entrusted with records subject to the legal custodian's supervision.

(5) Notwithstanding sub. (4), if an authority specified in sub. (4) or the members of such an authority are appointed by another authority, the appointing authority may designate a legal custodian for records of the authority or members of the authority appointed by the appointing authority, except that if such an authority is attached for administrative purposes to another authority, the authority performing administrative duties shall designate the legal custodian for the authority for whom administrative duties are performed.

(6) The legal custodian of records maintained in a publicly owned or leased building or the authority appointing the legal custodian shall designate one or more deputies to act as legal custodian of such records in his or her absence or as otherwise required

to respond to requests as provided in s. 19.35 (4). This subsection does not apply to members of the legislature or to members of any local governmental body.

(7) The designation of a legal custodian does not affect the powers and duties of an authority under this subchapter.

(8) No elective official of a legislative body has a duty to act as or designate a legal custodian under sub. (4) for the records of any committee of the body unless the official is the highest ranking officer or chief administrative officer of the committee or is designated the legal custodian of the committee's records by rule or by law.

**History:** 1981 c. 335; 2013 a. 171.

The right to privacy law, s. 895.50, [now s. 995.50] does not affect the duties of a custodian of public records under s. 19.21, 1977 stats. 68 Atty. Gen. 68.

**19.34 Procedural information; access times and locations.** (1) Each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian under s. 19.33 from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. The notice shall also separately identify each position of the authority that constitutes a local public office or a state public office. This subsection does not apply to members of the legislature or to members of any local governmental body.

(2) (a) Each authority which maintains regular office hours at the location where records in the custody of the authority are kept shall permit access to the records of the authority at all times during those office hours, unless otherwise specifically authorized by law.

(b) Each authority which does not maintain regular office hours at the location where records in the custody of the authority are kept shall:

1. Permit access to its records upon at least 48 hours' written or oral notice of intent to inspect or copy a record; or

2. Establish a period of at least 2 consecutive hours per week during which access to the records of the authority is permitted. In such case, the authority may require 24 hours' advance written or oral notice of intent to inspect or copy a record.

(c) An authority imposing a notice requirement under par. (b) shall include a statement of the requirement in its notice under sub. (1), if the authority is required to adopt a notice under that subsection.

(d) If a record of an authority is occasionally taken to a location other than the location where records of the authority are regularly kept, and the record may be inspected at the place at which records of the authority are regularly kept upon one business day's notice, the authority or legal custodian of the record need not provide access to the record at the occasional location.

**History:** 1981 c. 335; 2003 a. 47; 2013 a. 171.

**NOTE:** 2003 Wis. Act 47, which affects this section, contains extensive explanatory notes.

**19.345 Time computation.** In ss. 19.33 to 19.39, when a time period is provided for performing an act, whether the period is expressed in hours or days, the whole of Saturday, Sunday, and any legal holiday, from midnight to midnight, shall be excluded in computing the period.

**History:** 2003 a. 47.

**NOTE:** 2003 Wis. Act 47, which creates this section, contains extensive explanatory notes.

**19.35 Access to records; fees.** (1) **RIGHT TO INSPECTION.** (a) Except as otherwise provided by law, any requester has a right to inspect any record. Substantive common law principles construing the right to inspect, copy or receive copies of records shall remain in effect. The exemptions to the requirement of a governmental body to meet in open session under s. 19.85 are indicative of public policy, but may be used as grounds for deny-

ing public access to a record only if the authority or legal custodian under s. 19.33 makes a specific demonstration that there is a need to restrict public access at the time that the request to inspect or copy the record is made.

(am) In addition to any right under par. (a), any requester who is an individual or person authorized by the individual has a right to inspect any personally identifiable information pertaining to the individual in a record containing personally identifiable information that is maintained by an authority and to make or receive a copy of any such information. The right to inspect or copy information in a record under this paragraph does not apply to any of the following:

1. Any record containing personally identifiable information that is collected or maintained in connection with a complaint, investigation or other circumstances that may lead to an enforcement action, administrative proceeding, arbitration proceeding or court proceeding, or any such record that is collected or maintained in connection with such an action or proceeding.

2. Any record containing personally identifiable information that, if disclosed, would do any of the following:

- a. Endanger an individual's life or safety.

- b. Identify a confidential informant.

- c. Endanger the security, including the security of the population or staff, of any state prison under s. 302.01, jail, as defined in s. 165.85 (2) (bg), juvenile correctional facility, as defined in s. 938.02 (10p), secured residential care center for children and youth, as defined in s. 938.02 (15g), mental health institute, as defined in s. 51.01 (12), center for the developmentally disabled, as defined in s. 51.01 (3), or facility, specified under s. 980.065, for the institutional care of sexually violent persons.

- d. Compromise the rehabilitation of a person in the custody of the department of corrections or detained in a jail or facility identified in subd. 2. c.

3. Any record that is part of a records series, as defined in s. 19.62 (7), that is not indexed, arranged or automated in a way that the record can be retrieved by the authority maintaining the records series by use of an individual's name, address or other identifier.

(b) Except as otherwise provided by law, any requester has a right to inspect a record and to make or receive a copy of a record. If a requester appears personally to request a copy of a record that permits copying, the authority having custody of the record may, at its option, permit the requester to copy the record or provide the requester with a copy substantially as readable as the original.

(c) Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is in the form of a comprehensible audio recording a copy of the recording substantially as audible as the original. The authority may instead provide a transcript of the recording to the requester if he or she requests.

(d) Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is in the form of a video recording a copy of the recording substantially as good as the original.

(e) Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is not in a readily comprehensible form a copy of the information contained in the record assembled and reduced to written form on paper.

(em) If an authority receives a request to inspect or copy a record that is in handwritten form or a record that is in the form of a voice recording which the authority is required to withhold or from which the authority is required to delete information under s. 19.36 (8) (b) because the handwriting or the recorded voice would identify an informant, the authority shall provide to the requester, upon his or her request, a transcript of the record or the information contained in the record if the record or information is otherwise subject to public inspection and copying under this subsection.

(f) Notwithstanding par. (b) and except as otherwise provided by law, any requester has a right to inspect any record not specified in pars. (c) to (e) the form of which does not permit copying. If a requester requests permission to photograph the record, the authority having custody of the record may permit the requester to photograph the record. If a requester requests that a photograph of the record be provided, the authority shall provide a good quality photograph of the record.

(g) Paragraphs (a) to (c), (e) and (f) do not apply to a record which has been or will be promptly published with copies offered for sale or distribution.

(h) A request under pars. (a) to (f) is deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under s. 19.37.

(i) Except as authorized under this paragraph, no request under pars. (a) and (b) to (f) may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. Except as authorized under this paragraph, no request under pars. (a) to (f) may be refused because the request is received by mail, unless prepayment of a fee is required under sub. (3) (f). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

(j) Notwithstanding pars. (a) to (f), a requester shall comply with any regulations or restrictions upon access to or use of information which are specifically prescribed by law.

(k) Notwithstanding pars. (a), (am), (b) and (f), a legal custodian may impose reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

(L) Except as necessary to comply with pars. (c) to (e) or s. 19.36 (6), this subsection does not require an authority to create a new record by extracting information from existing records and compiling the information in a new format.

(2) FACILITIES. The authority shall provide any person who is authorized to inspect or copy a record under sub. (1) (a), (am), (b) or (f) with facilities comparable to those used by its employees to inspect, copy and abstract the record during established office hours. An authority is not required by this subsection to purchase or lease photocopying, duplicating, photographic or other equipment or to provide a separate room for the inspection, copying or abstracting of records.

(3) FEES. (a) An authority may impose a fee upon the requester of a copy of a record which may not exceed the actual, necessary and direct cost of reproduction and transcription of the record, unless a fee is otherwise specifically established or authorized to be established by law.

(b) Except as otherwise provided by law or as authorized to be prescribed by law an authority may impose a fee upon the requester of a copy of a record that does not exceed the actual, necessary and direct cost of photographing and photographic processing if the authority provides a photograph of a record, the form of which does not permit copying.

(c) Except as otherwise provided by law or as authorized to be prescribed by law, an authority may impose a fee upon a requester for locating a record, not exceeding the actual, necessary and direct cost of location, if the cost is \$50 or more.

(d) An authority may impose a fee upon a requester for the actual, necessary and direct cost of mailing or shipping of any copy or photograph of a record which is mailed or shipped to the requester.

(e) An authority may provide copies of a record without charge or at a reduced charge where the authority determines that waiver or reduction of the fee is in the public interest.

(f) An authority may require prepayment by a requester of any fee or fees imposed under this subsection if the total amount exceeds \$5. If the requester is a prisoner, as defined in s. 301.01 (2), or is a person confined in a federal correctional institution located in this state, and he or she has failed to pay any fee that was imposed by the authority for a request made previously by that requester, the authority may require prepayment both of the amount owed for the previous request and the amount owed for the current request.

(g) Notwithstanding par. (a), if a record is produced or collected by a person who is not an authority pursuant to a contract entered into by that person with an authority, the authorized fees for obtaining a copy of the record may not exceed the actual, necessary, and direct cost of reproduction or transcription of the record incurred by the person who makes the reproduction or transcription, unless a fee is otherwise established or authorized to be established by law.

(4) **TIME FOR COMPLIANCE AND PROCEDURES.** (a) Each authority, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor.

(b) If a request is made orally, the authority may deny the request orally unless a demand for a written statement of the reasons denying the request is made by the requester within 5 business days of the oral denial. If an authority denies a written request in whole or in part, the requester shall receive from the authority a written statement of the reasons for denying the written request. Every written denial of a request by an authority shall inform the requester that if the request for the record was made in writing, then the determination is subject to review by mandamus under s. 19.37 (1) or upon application to the attorney general or a district attorney.

(c) If an authority receives a request under sub. (1) (a) or (am) from an individual or person authorized by the individual who identifies himself or herself and states that the purpose of the request is to inspect or copy a record containing personally identifiable information pertaining to the individual that is maintained by the authority, the authority shall deny or grant the request in accordance with the following procedure:

1. The authority shall first determine if the requester has a right to inspect or copy the record under sub. (1) (a).

2. If the authority determines that the requester has a right to inspect or copy the record under sub. (1) (a), the authority shall grant the request.

3. If the authority determines that the requester does not have a right to inspect or copy the record under sub. (1) (a), the authority shall then determine if the requester has a right to inspect or copy the record under sub. (1) (am) and grant or deny the request accordingly.

(5) **RECORD DESTRUCTION.** No authority may destroy any record at any time after the receipt of a request for inspection or copying of the record under sub. (1) until after the request is granted or until at least 60 days after the date that the request is denied or, if the requester is a committed or incarcerated person, until at least 90 days after the date that the request is denied. If an authority receives written notice that an action relating to a record has been commenced under s. 19.37, the record may not be destroyed until after the order of the court in relation to such record is issued and the deadline for appealing that order has passed, or, if appealed, until after the order of the court hearing the appeal is issued. If the court orders the production of any record and the order is not appealed, the record may not be destroyed until after the request for inspection or copying is granted.

(6) **ELECTIVE OFFICIAL RESPONSIBILITIES.** No elective official is responsible for the record of any other elective official unless he or she has possession of the record of that other official.

(7) **LOCAL INFORMATION TECHNOLOGY AUTHORITY RESPONSIBILITY FOR LAW ENFORCEMENT RECORDS.** (a) In this subsection:

1. "Law enforcement agency" has the meaning given s. 165.83 (1) (b).

2. "Law enforcement record" means a record that is created or received by a law enforcement agency and that relates to an investigation conducted by a law enforcement agency or a request for a law enforcement agency to provide law enforcement services.

3. "Local information technology authority" means a local public office or local governmental unit whose primary function is information storage, information technology processing, or other information technology usage.

(b) For purposes of requests for access to records under sub. (1), a local information technology authority that has custody of a law enforcement record for the primary purpose of information storage, information technology processing, or other information technology usage is not the legal custodian of the record. For such purposes, the legal custodian of a law enforcement record is the authority for which the record is stored, processed, or otherwise used.

(c) A local information technology authority that receives a request under sub. (1) for access to information in a law enforcement record shall deny any portion of the request that relates to information in a local law enforcement record.

**History:** 1981 c. 335, 391; 1991 a. 39, 1991 a. 269 ss. 34am, 40am; 1993 a. 93; 1995 a. 77, 158; 1997 a. 94, 133; 1999 a. 9; 2001 a. 16; 2005 a. 344; 2009 a. 259, 370; 2013 a. 171.

**NOTE:** The following annotations relate to public records statutes in effect prior to the creation of s. 19.35 by ch. 335, laws of 1981.

A mandamus petition to inspect a county hospital's statistical, administrative, and other records not identifiable with individual patients, states a cause of action under this section. *State ex rel. Dalton v. Mundy*, 80 Wis. 2d 190, 257 N.W.2d 877 (1977).

Police daily arrest lists must be open for public inspection. *Newspapers, Inc. v. Breier*, 89 Wis. 2d 417, 279 N.W.2d 179 (1979).

This section is a statement of the common law rule that public records are open to public inspection subject to common law limitations. Section 59.14 [now 59.20 (3)] is a legislative declaration granting persons who come under its coverage an absolute right of inspection subject only to reasonable administrative regulations. *State ex rel. Bilder v. Town of Delavan*, 112 Wis. 2d 539, 334 N.W.2d 252 (1983).

A newspaper had the right to intervene to protect its right to examine sealed court files. *State ex rel. Bilder v. Town of Delavan*, 112 Wis. 2d 539, 334 N.W.2d 252 (1983).

Redacted portions of emails, who sent the emails, and where they were sent from were not "purely personal" and therefore subject to disclosure. Public awareness of who is attempting to influence public policy is essential for effective oversight of our government. Whether a communication is sent to a public official from a source that appears associated with a particular unit of government, a private entity, or a nonprofit organization, or from individuals who may be associated with a specific interest or particular area of the state, from where a communication is sent further assists the public in understanding who is attempting to influence public policy and why. *The John K. MacIver Institute for Public Policy, Inc. v. Erpenbach*, 2014 WI App 49, 354 Wis. 2d 61, 848 N.W.2d 862, 13–1187.

The record requester's identity was relevant in this case. As a general proposition, the identity and purpose of the requester of public records is not a part of the balancing test to be applied in determining whether to release records. However, the determination of whether there is a safety concern that outweighs the presumption of disclosure is a fact-intensive inquiry determined on a case-by-case basis. *Ardell v. Milwaukee Board of School Directors*, 2014 WI App 66, 354 Wis. 2d 471, 849 N.W.2d 894, 13–1650.

Examination of birth records cannot be denied simply because the examiner has a commercial purpose. 58 Atty. Gen. 67.

Consideration of a resolution is a formal action of an administrative or minor governing body. When taken in a proper closed session, the resolution and result of the vote must be made available for public inspection absent a specific showing that the public interest would be adversely affected. 60 Atty. Gen. 9.

Inspection of public records obtained under official pledges of confidentiality may be denied if: 1) a clear pledge has been made in order to obtain the information; 2) the pledge was necessary to obtain the information; and 3) the custodian determines that the harm to the public interest resulting from inspection would outweigh the public interest in full access to public records. The custodian must permit inspection of information submitted under an official pledge of confidentiality if the official or agency had specific statutory authority to require its submission. 60 Atty. Gen. 284.

The right to inspection and copying of public records in decentralized offices is discussed. 61 Atty. Gen. 12.

Public records subject to inspection and copying by any person would include a list of students awaiting a particular program in a VTAE (technical college) district school. 61 Atty. Gen. 297.

The investment board can only deny members of the public from inspecting and copying portions of the minutes relating to the investment of state funds and documents pertaining thereto on a case-by-case basis if valid reasons for denial exist and are specially stated. 61 Atty. Gen. 361.

Matters and documents in the possession or control of school district officials containing information concerning the salaries, including fringe benefits, paid to individual teachers are matters of public record. 63 Atty. Gen. 143.

The department of administration probably had authority under s. 19.21 (1) and (2), 1973 stats., to provide a private corporation with camera-ready copy of session

laws that is the product of a printout of computer stored public records if the costs are minimal. The state cannot contract on a continuing basis for the furnishing of this service. 63 Atty. Gen. 302.

The scope of the duty of the governor to allow members of the public to examine and copy public records in his custody is discussed. 63 Atty. Gen. 400.

The public's right to inspect land acquisition files of the department of natural resources is discussed. 63 Atty. Gen. 573.

Financial statements filed in connection with applications for motor vehicle dealers' and motor vehicle salvage dealers' licenses are public records, subject to limitations. 66 Atty. Gen. 302.

Sheriff's radio logs, intradepartmental documents kept by the sheriff, and blood test records of deceased automobile drivers in the hands of the sheriff are public records, subject to limitations. 67 Atty. Gen. 12.

Plans and specifications filed under s. 101.12 are public records and are available for public inspection. 67 Atty. Gen. 214.

Under s. 19.21 (1), district attorneys must indefinitely preserve papers of a documentary nature evidencing activities of prosecutor's office. 68 Atty. Gen. 17.

The right to examine and copy computer-stored information is discussed. 68 Atty. Gen. 231.

After the transcript of court proceedings is filed with the clerk of court, any person may examine or copy the transcript. 68 Atty. Gen. 313.

**NOTE:** The following annotations relate to s. 19.35.

Although a meeting was properly closed, in order to refuse inspection of records of the meeting, the custodian was required by sub. (1) (a) to state specific and sufficient public policy reasons why the public's interest in nondisclosure outweighed the right of inspection. *Oshkosh Northwestern Co. v. Oshkosh Library Board*, 125 Wis. 2d 480, 373 N.W.2d 459 (Ct. App. 1985).

Courts must apply the open records balancing test to questions involving disclosure of court records. The public interests favoring secrecy must outweigh those favoring disclosure. *C. L. v. Edson*, 140 Wis. 2d 168, 409 N.W.2d 417 (Ct. App. 1987).

Public records germane to pending litigation were available under this section even though the discovery cutoff deadline had passed. *State ex rel. Lank v. Kzenkowski*, 141 Wis. 2d 846, 416 N.W.2d 635 (Ct. App. 1987).

To uphold a custodian's denial of access, an appellate court will inquire whether the trial court made a factual determination supported by the record of whether documents implicate a secrecy interest, and, if so, whether the secrecy interest outweighs the interests favoring release. *Milwaukee Journal v. Call*, 153 Wis. 2d 313, 450 N.W.2d 515 (Ct. App. 1989).

That releasing records would reveal a confidential informant's identity was a legally specific reason for denial of a records request. The public interest in not revealing the informant's identity outweighed the public interest in disclosure of the records. *Mayfair Chrysler-Plymouth v. Balzarotta*, 162 Wis. 2d 142, 469 N.W.2d 638 (1991).

Items subject to examination under s. 346.70 (4) (f) may not be withheld by the prosecution under a common law rule that investigative material may be withheld from a criminal defendant. *State ex rel. Young v. Shaw*, 165 Wis. 2d 276, 477 N.W.2d 340 (Ct. App. 1991).

Prosecutors' files are exempt from public access under the common law. *State ex rel. Richards v. Foust*, 165 Wis. 2d 429, 477 N.W.2d 608 (1991).

Records relating to pending claims against the state under s. 893.82 need not be disclosed under s. 19.35. Records of non-pending claims must be disclosed unless an *in camera* inspection reveals that the attorney-client privilege would be violated. *George v. Record Custodian*, 169 Wis. 2d 573, 485 N.W.2d 460 (Ct. App. 1992).

The public records law confers no exemption as of right on indigents from payment of fees under sub. (3). *George v. Record Custodian*, 169 Wis. 2d 573, 485 N.W.2d 460 (Ct. App. 1992).

The denial of a prisoner's information request regarding illegal behavior by guards on the grounds that it could compromise the guards' effectiveness and subject them to harassment was insufficient. *State ex rel. Ledford v. Turcotte*, 195 Wis. 2d 244, 536 N.W.2d 130 (Ct. App. 1995), 94-2710.

The amount of prepayment required for copies may be based on a reasonable estimate. *State ex rel. Hill v. Zimmerman*, 196 Wis. 2d 419, 538 N.W.2d 608 (Ct. App. 1995), 94-1861.

The *Foust* decision does not automatically exempt all records stored in a closed prosecutorial file. The exemption is limited to material actually pertaining to the prosecution. *Nichols v. Bennett*, 199 Wis. 2d 268, 544 N.W.2d 428 (1996), 93-2480.

Department of Regulation and Licensing test scores were subject to disclosure under the open records law. *Munroe v. Braatz*, 201 Wis. 2d 442, 549 N.W.2d 452 (Ct. App. 1996), 95-2557.

Subs. (1) (i) and (3) (f) did not permit a demand for prepayment of \$1.29 in response to a mail request for a record. *Borzych v. Paluszeyk*, 201 Wis. 2d 523, 549 N.W.2d 253 (Ct. App. 1996), 95-1711.

An agency cannot promulgate an administrative rule that creates an exception to the open records law. *Chavala v. Bubolz*, 204 Wis. 2d 82, 552 N.W.2d 892 (Ct. App. 1996), 95-3120.

While certain statutes grant explicit exceptions to the open records law, many statutes set out broad categories of records not open to an open records request. A custodian faced with such a broad statute must state with specificity a public policy reason for refusing to release the requested record. *Chavala v. Bubolz*, 204 Wis. 2d 82, 552 N.W.2d 892 (Ct. App. 1996), 95-3120.

The custodian is not authorized to comply with an open records request at some unspecified date in the future. Such a response constitutes a denial of the request. *WTMJ, Inc. v. Sullivan*, 204 Wis. 2d 452, 555 N.W.2d 125 (Ct. App. 1996), 96-0053.

Subject to the redaction of officers' home addresses and supervisors' conclusions and recommendations regarding discipline, police records regarding the use of deadly force were subject to public inspection. *State ex rel. Journal/Sentinel, Inc. v. Arreola*, 207 Wis. 2d 496, 558 N.W.2d 670 (Ct. App. 1996), 95-2956.

A public school student's interim grades are pupil records specifically exempted from disclosure under s. 118.125. If records are specifically exempted from disclosure, failure to specifically state reasons for denying an open records request for those records does not compel disclosure of those records. *State ex rel. Blum v. Board of Education*, 209 Wis. 2d 377, 565 N.W.2d 140 (Ct. App. 1997), 96-0758.

Requesting a copy of 180 hours of audiotape of "911" calls, together with a transcription of the tape and log of each transmission received, was a request without "reasonable limitation" and was not a "sufficient request" under sub. (1) (h). *Schopper v. Gehring*, 210 Wis. 2d 208, 565 N.W.2d 187 (Ct. App. 1997), 96-2782.

If the requested information is covered by an exempting statute that does not require a balancing of public interests, there is no need for a custodian to conduct such a balancing. Written denial claiming a statutory exception by citing the specific statute or regulation is sufficient. *State ex rel. Savinski v. Kimble*, 221 Wis. 2d 833, 586 N.W.2d 36 (Ct. App. 1998), 97-3356.

Protecting persons who supply information or opinions about an inmate to the parole commission is a public interest that may outweigh the public interest in access to documents that could identify those persons. *State ex rel. Bergmann v. Faust*, 226 Wis. 2d 273, 595 N.W.2d 75 (Ct. App. 1999), 98-2537.

Sub. (1) (b) gives the record custodian, and not the requester, the choice of how a record will be copied. The requester cannot elect to use his or her own copying equipment without the custodian's permission. *Grebner v. Schiebel*, 2001 WI App 17, 240 Wis. 2d 551, 624 N.W.2d 892, 00-1549.

Requests for university admissions records focusing on test scores, class rank, grade point average, race, gender, ethnicity, and socio-economic background was not a request for personally identifiable information, and release was not barred by federal law or public policy. That the requests would require the university to redact information from thousands of documents under s. 19.36 (6) did not essentially require the university to create new records and, as such, did not provide grounds for denying the request under s. 19.35 (1) (L). *Osborn v. Board of Regents of the University of Wisconsin System*, 2002 WI 83, 254 Wis. 2d 266, 647 N.W.2d 158, 00-2861.

The police report of a closed investigation regarding a teacher's conduct that did not lead either to an arrest, prosecution, or any administrative disciplinary action, was subject to release. *Linzmeier v. Forcey*, 2002 WI 84, 254 Wis. 2d 306, 646 N.W.2d 811, 01-0197.

The John Doe statute, s. 968.26, which authorizes secrecy in John Doe proceedings, is a clear statement of legislative policy and constitutes a specific exception to the public records law. On review of a petition for a writ stemming from a secret John Doe proceeding, the court of appeals may seal parts of a record in order to comply with existing secrecy orders issued by the John Doe judge. Unnamed Persons Numbers 1, 2, and 3 v. State, 2003 WI 30, 260 Wis. 2d 653, 660 N.W.2d 260, 01-3220.

Sub. (1) (am) is not subject to a balancing of interests. Therefore, the exceptions to sub. (1) (am) should not be narrowly construed. A requester who does not qualify for access to records under sub. (1) (am) will always have the right to seek records under sub. (1) (a), in which case the records custodian must determine whether the requested records are subject to a statutory or common law exception, and if not whether the strong presumption favoring access and disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure determined by applying a balancing test. *Hempel v. City of Baraboo*, 2005 WI 120, 284 Wis. 2d 162, 699 N.W.2d 551, 03-0500.

Sub. (1) (a) does not mandate that, when a meeting is closed under s. 19.85, all records created for or presented at the meeting are exempt from disclosure. The court must still apply the balancing test articulated in *Linzmeier*. *Zellner v. Cedarburg School District*, 2007 WI 53, 300 Wis. 2d 290, 731 N.W.2d 240, 06-1143.

A general request does not trigger the sub. (4) (c) review sequence. Sub. (4) (c) recites the procedure to be employed if an authority receives a request under sub. (1) (a) or (am). An authority is an entity having custody of a record. The definition does not include a reviewing court. *Seifert v. School District of Sheboygan Falls*, 2007 WI App 207, 305 Wis. 2d 582, 740 N.W.2d 177, 06-2071.

The open records law cannot be used to circumvent established principles that shield attorney work product, nor can it be used as a discovery tool. The presumption of access under sub. (1) (a) is defeated because the attorney work product qualifies under the "otherwise provided by law" exception. *Seifert v. School District of Sheboygan Falls*, 2007 WI App 207, 305 Wis. 2d 582, 740 N.W.2d 177, 06-2071.

Sub. (1) (am) 1. plainly allows a records custodian to deny access to one who is, in effect, a potential adversary in litigation or other proceeding unless or until required to do so under the rules of discovery in actual litigation. The balancing of interests under sub. (1) (a) must include examining all the relevant factors in the context of the particular circumstances and may include the balancing the competing interests consider sub. (1) (am) 1. when evaluating the entire set of facts and making its specific demonstration of the need for withholding the records. *Seifert v. School District of Sheboygan Falls*, 2007 WI App 207, 305 Wis. 2d 582, 740 N.W.2d 177, 06-2071.

The sub. (1) (am) analysis is succinct. There is no balancing. There is no requirement that the investigation be current for the exemption for records "collected or maintained in connection with a complaint, investigation or other circumstances that may lead to . . . [a] court proceeding" to apply. *Seifert v. School District of Sheboygan Falls*, 2007 WI App 207, 305 Wis. 2d 582, 740 N.W.2d 177, 06-2071.

"Record" in sub. (5) and s. 19.32 (2) does not include identical copies of otherwise available records. A copy that is not different in some meaningful way from an original, regardless of the form of the original, is an identical copy. If a copy differs in some significant way for purposes of responding to an open records request, then it is not truly an identical copy, but instead a different record. *Stone v. Board of Regents of the University of Wisconsin*, 2007 WI App 223, 305 Wis. 2d 679, 741 N.W.2d 774, 06-2537.

*Schopper* does not permit a records custodian to deny a request based solely on the custodian's assertion that the request could reasonably be narrowed, nor does *Schopper* require that the custodian take affirmative steps to limit the search as a prerequisite to denying a request under sub. (1) (h). The fact that the request may result in the generation of a large volume of records is not, in itself, a sufficient reason to deny a request as not properly limited, but at some point, an overly broad request becomes sufficiently excessive to warrant rejection under sub. (1) (h). *Gehl v. Connors*, 2007 WI App 238, 306 Wis. 2d 742, 742 N.W.2d 530, 06-2455.

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23 Updated 07-08 Wis. Stats. Database  
Not certified under s. 35.18 (2), stats.

## GENERAL DUTIES OF PUBLIC OFFICIALS

19.81

costs to the county wherein the violation occurs. If the attorney general prevails in such an action, the court shall award any forfeiture recovered together with reasonable costs to the state.

History: 1979 c. 120; 1981 c. 149; 1981 c. 335 s. 26; 1983 a. 166 s. 16; 1991 a. 39, 269; 1995 a. 56, 227; 1999 a. 167; 2001 a. 109; 2003 a. 39; 2007 a. 1.

## SUBCHAPTER IV

## PERSONAL INFORMATION PRACTICES

## 19.62 Definitions. In this subchapter:

(1) "Authority" has the meaning specified in s. 19.32 (1).  
(2) "Internet protocol address" means an identifier for a computer or device on a transmission control protocol-Internet protocol network.

(3) "Matching program" means the computerized comparison of information in one records series to information in another records series for use by an authority or a federal agency to establish or verify an individual's eligibility for any right, privilege or benefit or to recoup payments or delinquent debts under programs of an authority or federal agency.

(5) "Personally identifiable information" means information that can be associated with a particular individual through one or more identifiers or other information or circumstances.

(6) "Record" has the meaning specified in s. 19.32 (2).

(7) "Records series" means records that are arranged under a manual or automated filing system, or are kept together as a unit, because they relate to a particular subject, result from the same activity or have a particular form.

(8) "State authority" means an authority that is a state elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, rule or order; a state governmental or quasi-governmental corporation; the supreme court or court of appeals; or the assembly or senate.

History: 1991 a. 39; 1993 a. 215; 1995 a. 27; 1997 a. 79; 2001 a. 16; 2007 a. 20.

## 19.65 Rules of conduct; employee training; and security. An authority shall do all of the following:

(1) Develop rules of conduct for its employees who are involved in collecting, maintaining, using, providing access to, sharing or archiving personally identifiable information.

(2) Ensure that the persons identified in sub. (1) know their duties and responsibilities relating to protecting personal privacy, including applicable state and federal laws.

History: 1991 a. 39.

19.67 Data collection. (1) COLLECTION FROM DATA SUBJECT OR VERIFICATION. An authority that maintains personally identifiable information that may result in an adverse determination about any individual's rights, benefits or privileges shall, to the greatest extent practicable, do at least one of the following:

(a) Collect the information directly from the individual.

(b) Verify the information, if collected from another person.

History: 1991 a. 39.

19.68 Collection of personally identifiable information from Internet users. No state authority that maintains an Internet site may use that site to obtain personally identifiable information from any person who visits that site without the consent of the person from whom the information is obtained. This section does not apply to acquisition of Internet protocol addresses.

History: 2001 a. 16.

19.69 Computer matching. (1) MATCHING SPECIFICATION. A state authority may not use or allow the use of personally identifiable information maintained by the state authority in a match under a matching program, or provide personally identifiable information for use in a match under a matching program, unless

the state authority has specified in writing all of the following for the matching program:

(a) The purpose and legal authority for the matching program.

(b) The justification for the program and the anticipated results, including an estimate of any savings.

(c) A description of the information that will be matched.

(2) COPY TO PUBLIC RECORDS BOARD. A state authority that prepares a written specification of a matching program under sub. (1) shall provide to the public records board a copy of the specification and any subsequent revision of the specification within 30 days after the state authority prepares the specification or the revision.

(3) NOTICE OF ADVERSE ACTION. (a) Except as provided under par. (b), a state authority may not take an adverse action against an individual as a result of information produced by a matching program until after the state authority has notified the individual, in writing, of the proposed action.

(b) A state authority may grant an exception to par. (a) if it finds that the information in the records series is sufficiently reliable.

(4) NONAPPLICABILITY. This section does not apply to any matching program established between the secretary of transportation and the commissioner of the federal social security administration pursuant to an agreement specified under s. 85.61 (2).

History: 1991 a. 39, 269; 1995 a. 27; 2003 a. 265.

19.71 Sale of names or addresses. An authority may not sell or rent a record containing an individual's name or address of residence, unless specifically authorized by state law. The collection of fees under s. 19.35 (3) is not a sale or rental under this section.

History: 1991 a. 39.

19.77 Summary of case law and attorney general opinions. Annually, the attorney general shall summarize case law and attorney general opinions relating to due process and other legal issues involving the collection, maintenance, use, provision of access to, sharing or archiving of personally identifiable information by authorities. The attorney general shall provide the summary, at no charge, to interested persons.

History: 1991 a. 39.

19.80 Penalties. (2) EMPLOYEE DISCIPLINE. Any person employed by an authority who violates this subchapter may be discharged or suspended without pay.

(3) PENALTIES. (a) Any person who willfully collects, discloses or maintains personally identifiable information in violation of federal or state law may be required to forfeit not more than \$500 for each violation.

(b) Any person who willfully requests or obtains personally identifiable information from an authority under false pretenses may be required to forfeit not more than \$500 for each violation.

History: 1991 a. 39, 269.

## SUBCHAPTER V

## OPEN MEETINGS OF GOVERNMENTAL BODIES

19.81 Declaration of policy. (1) In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.

(2) To implement and ensure the public policy herein expressed, all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.

*Text from the 2007-08 Wis. Stats. database updated by the Legislative Reference Bureau. Only printed statutes are certified under s. 35.18 (2), stats. Statutory changes effective prior to 1-1-09 are printed as if currently in effect. Statutory changes effective on or after 1-1-09 are designated by NOTES. Report errors at (608) 266-3561, FAX 264-6948, <http://www.legis.state.wi.us/rsb/stats.html>*

## 19.81 GENERAL DUTIES OF PUBLIC OFFICIALS

(3) In conformance with article IV, section 10, of the constitution, which states that the doors of each house shall remain open, except when the public welfare requires secrecy, it is declared to be the intent of the legislature to comply to the fullest extent with this subchapter.

(4) This subchapter shall be liberally construed to achieve the purposes set forth in this section, and the rule that penal statutes must be strictly construed shall be limited to the enforcement of forfeitures and shall not otherwise apply to actions brought under this subchapter or to interpretations thereof.

History: 1975 c. 426; 1983 a. 192.

NOTE: The following annotations relate to s. 66.77, repealed by Chapter 426, laws of 1975.

Subsequent to the presentation of evidence by the taxpayer, a board of review's consideration of testimony by the village assessor at an executive session was contrary to the open meeting law. Although it was permissible for the board to convene a closed session for the purpose of deliberating after a quasi-judicial hearing, the proceedings did not constitute mere deliberations but were a continuation of the quasi-judicial hearing without the presence of or notice to the objecting taxpayer. *Dolphin v. Butler Board of Review*, 70 Wis. 2d 403, 234 N.W.2d 277 (1975).

The open meeting law is not applicable to the judicial commission. *State ex rel. Lyneh v. Dancy*, 71 Wis. 2d 287, 238 N.W.2d 81 (1976).

A regular open meeting, held subsequent to a closed meeting on another subject, does not constitute a reconvened open meeting when there was no prior open meeting on that day. 58 Atty. Gen. 41.

Consideration of a resolution is a formal action of an administrative or minor governing body and when taken in proper closed session, the resolution and result of the vote must be made available for public inspection, pursuant to 19.21, absent a specific showing that the public interest would be adversely affected. 60 Atty. Gen. 9.

Joint apprenticeship committees, appointed pursuant to Wis. Adm. Code provisions, are governmental bodies and subject to the requirements of the open meeting law. 63 Atty. Gen. 363.

Voting procedures employed by worker's compensation and unemployment advisory councils that utilized adjournment of public meeting for purposes of having members representing employers and members representing employees or workers to separately meet in closed caucuses and to vote as a block on reconvening was contrary to the open records law. 63 Atty. Gen. 414.

A governmental body can call closed sessions for proper purposes without giving notice to members of the news media who have filed written requests. 63 Atty. Gen. 470.

The meaning of "communication" is discussed with reference to giving the public and news media members adequate notice. 63 Atty. Gen. 509.

The posting in the governor's office of agenda of future investment board meetings is not sufficient communication to the public or the news media who have filed a written request for notice. 63 Atty. Gen. 549.

A county board may not utilize an unidentified paper ballot in voting to appoint a county highway commissioner, but may vote by yeas and nays or show of hands at an open session if some member does not require the vote to be taken in such manner that the vote of each member may be ascertained and recorded. 63 Atty. Gen. 569.

NOTE: The following annotations refer to ss. 19.81 to 19.98.

When the city of Milwaukee and a private non-profit festival organization incorporated the open meetings law into a contract, the contract allowed public enforcement of the contractual provisions concerning open meetings. *Journal/Sentinel, Inc. v. Pleva*, 155 Wis. 2d 704, 456 N.W.2d 359 (1990).

Sub. (2) requires that a meeting be held in a facility that gives reasonable public access, not total access. No person may be systematically excluded or arbitrarily refused admission. *State ex rel. Badke v. Greendale Village Bd.* 173 Wis. 2d 553, 494 N.W.2d 408 (1993).

This subchapter is discussed. 65 Atty. Gen. preface.

Public notice requirements for meetings of a city district school board under this subchapter and s. 120.48, 1983 stats., are discussed. 66 Atty. Gen. 93.

A volunteer fire department organized as a nonprofit corporation under s. 213.05 is not subject to the open meeting law. 66 Atty. Gen. 113.

Anyone has the right to tape-record an open meeting of a governmental body provided the meeting is not thereby physically disrupted. 66 Atty. Gen. 318.

The open meeting law does not apply to a coroner's inquest. 67 Atty. Gen. 250.

The open meeting law does not apply if the common council hears a grievance under a collective bargaining agreement. 67 Atty. Gen. 276.

The application of the open meeting law to the duties of WERC is discussed. 68 Atty. Gen. 171.

A senate committee meeting was probably held in violation of the open meetings law although there was never any intention prior to the gathering to attempt to debate any matter of policy, to reach agreement on differences, to make any decisions on any bill or part thereof, to take any votes, or to resolve substantive differences. Quorum gatherings should be presumed to be in violation of the law, due to a quorum's ability to thereafter call, compose and control by vote a formal meeting of a governmental body. 71 Atty. Gen. 63.

Nonstock corporations created by statute as bodies politic clearly fall within the term "governmental body" as defined in the open meetings law and are subject to the provisions of the open meetings law. Nonstock corporations that were not created by the legislature or by rule, but were created by private citizens are not bodies politic and not governmental bodies. 73 Atty. Gen. 53.

A "quasi-governmental corporation" in sub. (1) includes private corporations that closely resemble governmental corporations in function, effect, or status. 80 Atty. Gen. 129.

Understanding Wisconsin's open meeting law. Harvey, WBB September 1980.

Getting the Best of Both Worlds: Open Government and Economic Development. Westberg, Wis. Law, Feb. 2009.

## 19.82 Definitions. As used in this subchapter:

(1) "Governmental body" means a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a local exposition district under subch. II of ch. 229; a long-term care district under s. 46.2895; or a formally constituted subunit of any of the foregoing, but excludes any such body or committee or subunit of such body which is formed for or meeting for the purpose of collective bargaining under subch. I, IV or V of ch. 111.

(2) "Meeting" means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. If one-half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. The term does not include any social or chance gathering or conference which is not intended to avoid this subchapter, any gathering of the members of a town board for the purpose specified in s. 60.50 (6), any gathering of the commissioners of a town sanitary district for the purpose specified in s. 60.77 (5) (lc), or any gathering of the members of a drainage board created under s. 88.16, 1991 stats., or under s. 88.17, for a purpose specified in s. 88.065 (5) (a).

(3) "Open session" means a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times. In the case of a state governmental body, it means a meeting which is held in a building and room thereof which enables access by persons with functional limitations, as defined in s. 101.13 (1).

History: 1975 c. 426; 1977 c. 364, 447; 1985 a. 26, 29, 332; 1987 a. 305; 1993 a. 215, 263, 456, 491; 1995 a. 27, 185; 1997 a. 79; 1999 a. 9; 2007 a. 20, 96.

A "meeting" under sub. (2) was found although the governmental body was not empowered to exercise the final powers of its parent body. *State v. Swanson*, 92 Wis. 2d 310, 284 N.W.2d 655 (1979).

A "meeting" under sub. (2) was found when members met with a purpose to engage in government business and the number of members present was sufficient to determine the parent body's course of action regarding the proposal discussed. *State ex rel. Newspapers v. Showers*, 135 Wis. 2d 77, 398 N.W.2d 154 (1987).

The open meetings law is not meant to apply to single-member governmental bodies. Sub. (2) speaks of a meeting of the members, plural, implying there must be at least two members of a governmental body. *Plourde v. Berends*, 2006 WI App 147, 294 Wis. 2d 746, 720 N.W.2d 130, 05-2106.

A corporation is quasi-governmental if, based on the totality of circumstances, it resembles a governmental corporation in function, effect, or status, requiring a case-by-case analysis. Here, a primary consideration was that the body was funded exclusively by public tax dollars or interest thereon. Additionally, its office was located in the municipal building, it was listed on the city Web site, the city provided it with clerical support and office supplies, all its assets revert to the city if it ceases to exist, its books are open for city inspection, the mayor and another city official are directors, and it had no clients other than the city. *State v. Beaver Dam Area Development Corporation*, 2008 WI 90, 312 Wis. 2d 84, 752 N.W.2d 295, 06-0662.

A municipal public utility commission managing a city owned public electric utility is a governmental body under sub. (1). 65 Atty. Gen. 243.

A "private conference" under s. 118.22 (3), on nonrenewal of a teacher's contract is a "meeting" within s. 19.82 (2). 66 Atty. Gen. 211.

A private home may qualify as a meeting place under sub. (3). 67 Atty. Gen. 125.

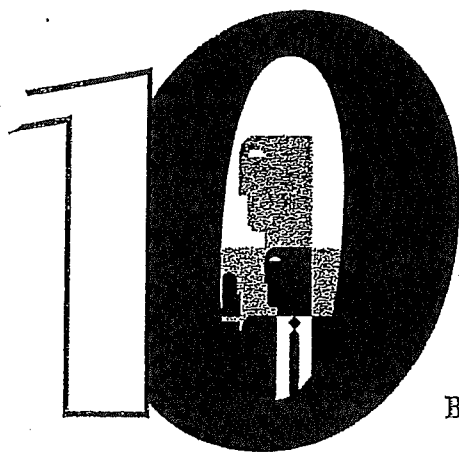
A telephone conference call involving members of governmental body is a "meeting" that must be reasonably accessible to the public and public notice must be given. 69 Atty. Gen. 143.

**19.83 Meetings of governmental bodies.** (1) Every meeting of a governmental body shall be preceded by public notice as provided in s. 19.84, and shall be held in open session. At any meeting of a governmental body, all discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in s. 19.85.

(2) During a period of public comment under s. 19.84 (2), a governmental body may discuss any matter raised by the public.

History: 1975 c. 426; 1997 a. 123.

When a quorum of a governmental body attends the meeting of another governmental body when any one of the members is not also a member of the second body, the gathering is a "meeting," unless the gathering is social or by chance. *State ex rel. Badke v. Greendale Village Board*, 173 Wis. 2d 553, 494 N.W.2d 408 (1993).



## TEN Tips: Using Your Municipal Attorney More Effectively

By: Claire Silverman, Legal Counsel

**W**hat role does the municipal attorney play in your city or village? Is the attorney contacted on a regular basis and kept apprised of what's going on in the community, or is the municipal attorney only contacted when there's a crisis? The municipal attorney can play a valuable role in helping a municipality carry out its responsibilities and accomplish its objectives in a lawful manner. This legal comment explains what the municipal attorney does and offers some tips for using the municipal attorney more effectively.

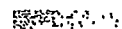
### WHAT DOES THE MUNICIPAL ATTORNEY DO?

Wisconsin law does not specify the responsibilities of the municipal attorney in any great detail. In fact, although the attorney is an enumerated officer in the statutory chapter governing cities,<sup>1</sup> the chapter governing villages does not mention an attorney at all. The statute setting forth the responsibilities of the city attorney states that the attorney shall "conduct all the law business in which the city is interested,"<sup>2</sup> and sets forth a few specific duties.

With so little statutory guidance there are, understandably, wide variations in the way in which communities use their municipal attorney. Although the job of the municipal attorney varies depending on the size of the municipality and the complexity of the issues it faces and the services it provides, here are some things that municipal attorneys or special counsel (e.g., labor counsel or bond counsel) typically do for municipalities:

- ◆ Give legal advice and opinions to the governing body, and other boards, commissions and departments.

- ◆ Draft resolutions, ordinances, deeds, contracts and other legal documents that the municipality is a party to.
- ◆ Represent the municipality's interests in legal proceedings.
- ◆ Examine the tax and assessment rolls and other tax proceedings and advise the proper municipal officers in regard thereto.<sup>3</sup>
- ◆ Attend governing body meetings and meetings of other boards and commissions, when requested.
- ◆ Review governing body agendas to identify potential legal problems.
- ◆ Develop forms, policies and procedures to standardize government operations and ensure that the municipality is proceeding lawfully.
- ◆ Ensure that bodies acting in a quasi-judicial capacity do so in a meaningful way that ensures due process and develops an adequate evidentiary record.
- ◆ Represent the municipality in labor negotiations.
- ◆ Advise the municipality regarding financial matters.



Some valuable ideas were provided by the following articles: "The Municipal Attorney: A Vital Part of Your Local Government," Frederick C. Sussman, *Municipal Maryland* (October 1995); "Pay Now or Pay Later: Working With Your City Attorney," Chris Smith, Staff Attorney, *League of Minnesota Cities*; and "How to Be A Good Consumer of Legal Services," Eunice Gibson, Madison City Attorney.

see Ten Tips  
continued on page 118

1. Sec. 62.09(1), Stats.

2. Sec. 62.09(12), Stats.

3. Sec. 62.09(12)(e), Stats.

## Ten Tips from page 117

- ◆ Assist in matters relating to land acquisition and development.
- ◆ Prosecute cases involving ordinance violations.
- ◆ Assist in ordinance codification.

## TIPS FOR USING YOUR ATTORNEY MORE EFFECTIVELY.

The following list is not intended to be exhaustive but, rather, is a starting point for using your municipal attorney effectively.

### 1. Remember that you and the municipal attorney are on the same team.

The municipal attorney should not be viewed as an obstructionist. It is the municipal attorney's job to protect the municipality by identifying potential legal problems and to assist the municipality so that it exercises its powers in a lawful manner. If you have specific goals, clearly communicate those goals to the attorney. It may be that the goal itself is unlawful. In that case, it is better to know that in advance in order to protect the municipality from liability. However, most often the end goal is legitimate and there are a variety of ways to achieve the desired result. The means of achieving the goal are less important than reaching the desired result, but using the wrong means can have significant legal consequences. Consult with the municipal attorney and allow the attorney to identify the various legal ways to achieve the desired result and the benefits and pitfalls of taking a particular route. Be open to the attorney's suggestions.

### 2. Remember who the client is.

Municipal officials should bear in mind that the municipal attorney's client is the municipality, acting through its governing body, and not the individual officers or employees. Because the municipality is the client and it is often unclear who can speak or act on behalf of the municipality,

it can be helpful for both the attorney and municipal officials if the governing body develops clear guidelines regarding who can contact the municipal attorney and under what circumstances it is appropriate to do so. Individual officers and employees must understand that they themselves are not the attorney's client and that the municipal attorney may not be able to keep everything told to the attorney confidential. Moreover, officials and employees should not attempt or expect to persuade the municipal attorney to act in a manner that is inconsistent with the attorney's obligation to the client, the municipality.

### 3. Involve your municipal attorney early.

When a municipality does not have in-house counsel, local officials are sometimes reluctant to call the municipal attorney because it costs money. Although the cost of legal services is a valid concern and it's unnecessary to call the municipal attorney for every little thing, the best advice is don't be penny-wise and pound-foolish. There are many times when an early request for legal assistance can save money and unnecessary headaches down the road.

Consult the municipal attorney whenever the municipality or its officers and employees are the subject of or receive legal documents such as complaints or subpoenas. Legal advice is also warranted whenever municipalities must follow specific statutory procedures in order to exercise certain powers — e.g., annexation of property, creating tax increment finance districts, imposing special assessments and impact fees, razing of buildings, zoning and platting matters, revocation of licenses. It's also wise to consult the attorney when failure to take adequate steps to protect the municipality can result in significant expense for the municipality. For example, in matters relating to development, failure to secure the necessary protections can leave a municipality responsible for making substantial and expensive improvements, completing unfinished work or redoing shoddy work.

Finally, it's also a good idea to seek legal advice whenever the municipality will be bound by contracts or other nego-

tiations. With regard to significant contracts or negotiations, it's important to involve the attorney early, before all the details have been worked out. Once a deal is ready to be concluded, it gains a momentum of its own and it is very difficult for an attorney who is brought in towards the end of the deal to have meaningful input. Furthermore, when an attorney is brought in late and then spots a number of legal issues and potential problems, it is much more expensive to address the problems and remedy them. Moreover, if the potential problems are not addressed and later become actual problems or lead to litigation, legal assistance becomes truly expensive.

### 4. Prepare before speaking or meeting with your municipal attorney.

Just as a good lawyer should prepare to meet with a client, a client can and should spend time preparing to meet with an attorney. Doing your homework before meeting with the attorney will give the municipality the best value for the money it spends on legal services. The attorney often comes into a situation knowing very little about it. Take time, before meeting with the attorney, to identify and document the pertinent facts, and to identify what you think the important issues and concerns are. Understand what the municipality's objectives are and be prepared to explain them to the attorney.

### 5. Be very clear regarding expectations.

Have a clear idea regarding the importance of the matter and convey those expectations to the attorney. Think about the role you expect the municipal attorney to play. Should the attorney write a formal opinion letter laying out the relevant facts and explaining the various options? Should the attorney draft certain legal documents? Is the matter a minor one where the attorney is being used primarily as a sounding board? Make sure the attorney understands the priority of the matter — low, intermediate or high — and that you explain what the municipality's time frame is regarding the matter and when the answer or work product is needed.

**6. Plan ahead for legal services.**

Give the attorney adequate time to research issues and answer questions. Don't demand an immediate response from the municipal attorney at a meeting. Municipal law is not a compact, well-defined body of law. Rather, municipal law includes a vast number of areas such as annexation, contracts, employment law, powers of governmental bodies, platting, zoning, open meeting and public record laws, public utilities (just to mention a few). Provisions relating to municipal law are complex and are sprinkled throughout the statutes, both federal and state, and in administrative regulations. On top of that, there is often case law where the courts have interpreted these provisions. The municipal attorney should not be expected to have all the various provisions memorized or to shoot from the hip.

**7. Provide the attorney with the necessary resources to do the job requested or clearly limit the scope of the job.**

Don't ask your attorney to do quick a review of complex documents or just "look things over." If a review is to be meaningful, it is necessary to allow the attorney to take the time and measures necessary to do the job. The municipal attorney can commit malpractice by doing an inadequate job. Therefore, it is only fair to give the attorney some express indication if the attorney's review is intended to be limited in its scope.

**8. Be candid with your municipal attorney.**

Disclose all the pertinent facts and don't be selective. Although being selective in what you tell the municipal attorney may get you the answer you want, it may have significant consequences for the municipality later. With careful thought and planning, a good attorney can deal with bad facts. However, it is very difficult for an attorney to deal with damaging facts when the attorney is blindsided later in the process. In all likelihood, damaging or unfavorable facts will eventually be revealed, so be candid with your municipal attorney and make sure the attorney is

aware of all relevant facts so he or she can figure out how they weigh in the equation and deal with them accordingly.

**9. Understand that your municipal attorney cannot always give a concrete answer.**

Contrary to popular opinion, attorneys do not like to waffle. Attorneys like to be able to advise their clients with certainty but quite often the law does not provide a clear-cut answer to a legal question. Although your municipal attorney should be able to analyze the law in a given area and make an educated prediction regarding the likely outcome, there are times when the attorney will not feel comfortable making a prediction because it is too close for the attorney to call. In those situations, it is reasonable for the attorney to explain the relevant law and why the question is too close to call. The attorney should also explain the consequences given several different outcomes.

**10. Remember that lawyers are legal advisors, not policy makers.**

The municipal attorney is a legal advisor and it is the attorney's job to help the municipality see what the options are and what the benefits and disadvantages might be of proceeding in a given way. The municipal attorney should not be pulled into politics and should be allowed to maintain independence and objectivity so that the attorney can give the correct legal answer rather than the desired legal answer. Once the legislative body has decided which way to proceed, the municipal attorney can then implement the plan and make sure the municipality carries out its powers lawfully.

**CONCLUSION**

The municipal attorney is a valuable part of any municipal team and, when used effectively, can do a lot to help the municipality carry out its responsibilities and lawfully achieve its goals while at the same time protecting the municipality and its officers and employees from significant liability.

Officers 763

“JUST AS A GOOD

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SPENDS ON LEGAL

SERVICES.”

**RESOLUTION**

**A RESOLUTION DECLARING THE CITY OF EAU CLAIRE TO BE IN A STATE OF EMERGENCY.**

**WHEREAS**, conditions exist within the City of Eau Claire or the surrounding vicinity so as to gravely threaten the health, safety, and welfare of the citizens and other population of the City by reason of war, conflagration, flood, heavy snow storm, blizzard, catastrophe, disaster, riot or civil commotion, act of God, and including conditions, without limitation, which impair transportation, food or fuel supplies, medical care, fire, health, or police protection, or other vital facilities of the City, or as more specifically identified as follows: \_\_\_\_\_;

**WHEREAS**, the City Council of the City of Eau Claire is authorized to invoke emergency powers in such circumstances by §§ 166.23 and 62.11, Wis. Stats., among other statutory and constitutional authorities, to respond in this time of emergency to protect as best able the life, liberty, and property of its citizens;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Eau Claire: That the City Council hereby declares a state of emergency within the City of Eau Claire: [ALTERNATE 1] until \_\_\_\_\_ a.m./p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as subject to extension based upon the conditions as they exist on or about that time. [ALTERNATE 2] until such time as the emergency conditions no longer exist as declared by the City Manager or his/her designee or by future action of the City Council [STRIKE ONE]; and

**BE IT FURTHER RESOLVED** that the City Manager and any designees or successors to that office are acknowledged as the head of emergency government for the City of Eau Claire pursuant to City Code § 2.88.010, with the full authority as stated therein, and under § 166.23, Wis. Stats., to take action necessary and expedient for the health, safety, welfare, and good order of the

City during the duration of this declared emergency, unless any of said authority is removed sooner by lawful action of the City Council. While said emergency authority exists, it shall include, but not be limited to, the following expressly granted powers: Emergency procurement under Wis. Stat. §62.15(1b) and Code §2.92.150 permitting the letting of public works contracts without notice or competitive bidding; require emergency evacuations of any or all portions of the City; placard homes or other structures as unsafe for human habitation; issue isolation or quarantine orders; establish curfew hours or other restrictions of time and place of travel within the City; and such other temporary restrictions made reasonably necessary by the exigencies of the situation as then known to the City Manager or the designee or successor to that office.

Adopted,

\_\_\_\_\_, 20\_\_\_\_

**PROCLAMATION**

**A PROCLAMATION DECLARING THE CITY OF EAU CLAIRE TO BE IN A STATE OF EMERGENCY.**

**WHEREAS**, conditions exist within the City of Eau Claire or the surrounding vicinity so as to gravely threaten the health, safety, and welfare of the citizens and other population of the City by reason of war, conflagration, flood, heavy snow storm, blizzard, catastrophe, disaster, riot or civil commotion, act of God, and including conditions, without limitation, which impair transportation, food or fuel supplies, medical care, fire, health, or police protection or other vital facilities of the city, or as more specifically identified as follows: \_\_\_\_\_;

**WHEREAS**, the City Manager of the City of Eau Claire is authorized to invoke emergency powers in such circumstances by §§ 166.23 and 62.11, Wis. Stats., and City Code § 2.88.010, among other statutory and constitutional authorities, to respond as the chief executive officer in this time of emergency to protect as best able the life, liberty, and property of the citizens of the City of Eau Claire;

**NOW, THEREFORE, BE IT RESOLVED** by the City Manager of the City of Eau Claire: That a state of emergency is hereby declared within the City of Eau Claire: [*ALTERNATE 1*] until \_\_\_\_\_ a.m./p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as subject to extension based upon the conditions as they exist on or about that time. [*ALTERNATE 2*] until such time as the emergency conditions no longer exist as declared by the City Manager or his/her designee or by future action of the City Council [*STRIKE ONE*]; and

**BE IT FURTHER RESOLVED** that the City Manager, and any designees or successors to that office, are acknowledged as the head of emergency government for the City of Eau Claire pursuant to City Code § 2.88.010 with the full authority as stated therein and under § 166.23, Wis.

Stats., to take action necessary and expedient for the health, safety, welfare, and good order of the City during the duration of this declared emergency, unless any of said authority is removed sooner by lawful action of the City Council. While said emergency authority exists, it shall include, but not be limited to, the following expressly granted powers: Emergency procurement under Wis. Stat. §62.15(1b) and Code §2.92.150 permitting the letting of public works contracts without notice or competitive bidding; require emergency evacuations of any or all portions of the City; placard homes or other structures as unsafe for human habitation; issue isolation or quarantine orders; establish curfew hours or other restrictions of time and place of travel within the City; and such other temporary restrictions made reasonably necessary by the exigencies of the situation as then known to the City Manager or the designee or successor to that office.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

CITY OF EAU CLAIRE

By:

\_\_\_\_\_

\_\_\_\_\_, City Manager

## **COUNCIL MEETINGS – GENERAL INFORMATION**

The City Council Legislative Session is set by City Ordinance at 4 p.m. on the second and fourth Tuesdays of the month. A Public Hearing and Discussion Session is held at 7 p.m. on the Monday night preceding the Tuesday meeting.

Special meetings may be held when required. All meetings are open to the public, although Council may occasionally go into closed session to discuss matters as specifically outlined in the Wisconsin Open Meetings Law (such as negotiations, personnel evaluations or sale or acquisition of property).

Public notice of all City Council and board, committee and commission meetings is sent to area news media. The notice states the time, date, location and items to be considered. All meeting notices are posted on the bulletin board on the first floor of City Hall near the Customer Service entrance, at the Library and at the Parks and Recreation Community Building.

Minutes of all meetings of the City Council, as well as minutes of all City boards, commissions and committees, are maintained in the City Clerk's Office and are available for public review during regular office hours. Minutes of City Council meetings are published in the "Legal Section" of the newspaper on a "space available" basis, so there may often be a delay of two or more weeks before minutes appear in print.

The City Council agendas, as well as the entire City Council packet, are posted on the City's web site ([www.eauclairewi.gov](http://www.eauclairewi.gov)) on the Thursday before regular City Council meetings. The City Clerk also maintains a copy of all agenda materials for public information purposes.

### **Types of Council Action**

The City Council enacts legislation and takes official action in various ways, operating under ***Roberts Rules of Order***.

Motions are used to approve, reject or table procedural matters. Sometimes motions are used to take legislative action. Having the motion in writing assures that your motion is accurately voted upon and recorded.

Resolutions are used to establish policy, express the opinion of the Council in a formal manner, and direct or authorize administrative action. Resolutions, although legislative action, are not officially published. They are frequently used for matters not requiring permanency.

Proclamations are primarily issued to recognize individuals, civic functions, or special events.

Ordinances are the most formal legislative actions taken by the City Council and constitute the local laws. They are used for matters requiring a degree of permanency. Ordinances deal with matters such as traffic, zoning, health and safety regulations, governmental organization, annexation, building and construction codes, licenses, and so forth. An ordinance is distinguished from a resolution in that it must be published in order to be effective. Most ordinances are compiled in a volume entitled, "Code of Ordinances". Violation of a City ordinance usually involves a penalty.

Charter Ordinances are sometimes required by law to enact certain types of legislation. They constitute the most permanent type of legislative action that can be enacted by the City Council. Charter ordinances must be adopted by a 3/4 vote of the City Council and do not take effect for a period of 60 days. During the 60-day period, a petition can be filed calling for a referendum on the matter. A charter ordinance can only be amended or repealed by another charter ordinance.

### **Placing an Item on the Council Agenda**

An agenda shall be prepared for all meetings of the city council by the city manager. The city manager shall advise the council president, or other council member presiding over the meeting, of the items included on the agenda. An item may be placed on the agenda by the city manager, council president, or any other council member. An item recommended for placement on an agenda may be removed from the agenda by the city manager or council president. If the city manager or council president removes an item from the agenda, the item shall be restored to the agenda upon the request of two or more council members. (Ord. 5734, 1997; Ord. 5509, 1995; Ord. 5273, 1992)

### **Voting Rules**

#### **Definition of Quorum**

The majority of the members of the council shall constitute a quorum...(6). §64.07, Wis. Stats.

#### **Votes Necessary to Pass an Ordinance or Resolution**

A majority vote of all the members of the council shall be necessary to adopt any ordinance or resolution (6). §64.07, Wis. Stats.

#### **Statutory Exceptions Exist that Require a Super Majority Vote**

- Annexation ordinances require a 2/3 vote of the elected members (8). §66.0217(8)(a)
- Zoning amendments with valid protest petitions require a 3/4 vote of the members voting on the proposed change. §62.23(7)(d)2m.a., Wis. Stats.

#### **Votes Necessary to Pass a Motion or Procedural Matter**

A motion or procedural matter generally requires one more than half of all members voting on the item for passage. Some motions, such as a motion to suspend the rules, require a 2/3 vote of those voting. Robert's Rules of Order

#### **Votes Necessary to Pass a Charter Ordinance**

A charter ordinance requires a 2/3 vote of the members-elect to the city council (8). §66.0101, Wis. Stats.

#### **Votes Necessary for Reconsideration**

Any member who voted with the prevailing side on any question may move for reconsideration of the vote immediately following the vote or at the next succeeding regular meeting of the council. If a motion to reconsider is defeated, it may not again be presented to the council. Any member may second the motion. A simple majority vote is required. §2.08.095 City of Eau Claire Code.

### Abstentions

Abstentions are non-votes when a board member is required by law to abstain from voting and the abstaining member is considered not present or not voting for calculating the number of votes required for the passage of the item. Ballenger v. Door County, 131 Wis.2d 422, 388 N.W.2d 624 (Ct. App. 1986). Abstentions for other reasons shall also be considered non-votes; however, members should be aware that some jurisdictions consider a voluntary abstention an acquiescence with the majority and therefore members should only use abstentions when they feel compelled to do so by a conflict of interest or other legal requirement. League of Wisconsin Municipalities Opinion: Governing Bodies #346 (1995).

## **CITY COUNCIL MEETING DATES**

The City Council Legislative Meetings are held on the **Second and Fourth Tuesdays** of each month at 4:00 p.m. (which is not necessarily every other week). The Public Hearings are held the Monday night before at 7 p.m.

### **City Council Meeting Dates for 2015– April 2016**

#### **2015**

January 12 & 13  
January 26 & 27  
February 9 & 10  
February 23 & 24  
March 9 & 10  
March 23 & 24  
April 13 & 14  
April 21 (Organizational Meeting)  
April 27 & 28  
May 11 & 12  
May 25\* & 26  
June 8 & 9  
June 22 & 23  
July 13 & 14  
July 27 & 28  
August 10 & 11  
August 24 & 25  
September 7\* & 8

September 21 & 22  
October 12 & 13  
October 26 & 27  
November 9 & 10  
November 23 & 24  
December 7 & 8  
December 21\* & 22\*

#### **2016**

January 11 & 12  
January 25 & 26  
February 8 & 9  
February 22 & 23  
March 7 & 8  
March 21 & 22  
April 11 & 12  
April 19 (Organizational Meeting)

## CITY COUNCIL AGENDA

### MONDAY EVENING HEARINGS AND PUBLIC DISCUSSION

On the Monday evening preceding the regular Council meeting, the City Council meets at 7 p.m. to listen to citizen comments and hear presentations from the public and City staff.

Agendas are available at the table at the back of the room for all attendees, along with names of all Council Members and a description of meeting procedures. (Sample copy on following page.)

In addition to the agendas, forms are available to be filled out by attendees who may wish to express their opinions in writing, rather than speak. These forms are copied and provided to the Council prior to the legislative meeting on Tuesday. A sample form is also included for your information (page after next).

The Council President calls for a presentation on the agenda item. The Council then has an opportunity to ask questions of the presenter related to the item. The Council President will then recognize individuals who wish to speak regarding the item.

As specified in the Open Meeting Law, items not appearing on the agenda cannot be discussed.

The City Council will at times convene in closed session after the public hearings and discussions. At this time the public is asked to leave the Council Chamber. The Council considers confidential information during the closed session and **matters considered in closed session should not be discussed outside the meeting room.**



**WELCOME TO THE MONDAY CITY COUNCIL MEETING**  
**PROCEDURE FOR PUBLIC HEARING AND DISCUSSION SESSION ITEMS**

1. Staff presentation.
2. Council questions.
3. Public Comments.
  - Please wait to be recognized by the Council President.
  - State your name and address
  - Voice your opinions, requests or concerns.
  - Citizens are normally allowed to address the Council once on a particular issue.
  - Try to limit your comments to **five** minutes.  
A timing system is on the podium. A green light will come on when you begin to speak. A yellow light will flash when you have spoken for four minutes. A red light will come on when you have spoken for five minutes.
4. Written Comments.
  - Forms are available in the back of the room.
  - Place completed sheets in the basket on the back table.
  - Written comments will be copied and distributed to Council members prior to the Tuesday Legislative meeting.

**CLOSED SESSION**

The Council may convene in closed session after the public hearings and discussions. At this time the public is asked to leave the Council Chamber. The Council considers confidential information during the closed session. All closed sessions are indicated on the agenda and are governed under the provisions of the Wisconsin Open Meetings Law.

**CITY COUNCIL MEMBERS**

The City Council President and Council Members are elected to three-year terms. The At-Large Alderpersons were elected in 2013, the City Council President was elected in 2014, and the District Alderpersons were elected in April 2015. Seated from left to right the Council Members are:

(Current City Council Members Listed Here)

Also, seated with the Council are the following City staff members:

Russell Van Gompel	City Manager
Stephen Nick	City Attorney

At the table on the right are:

Donna Austad	City Clerk
Catherine Marohl	Executive Assistant

The City of Eau Claire has a Council-Manager form of government. The Council has responsibility for determining community needs, establishing priorities, specifying immediate and long-range goals, services and programs, hiring the City Manager, and adopting the annual budget.

The City Council and City staff members are interested in maintaining open communication with citizens. If you have specific questions, opinions, ideas, or concerns regarding the City do not hesitate to contact your Council Representative at his or her number listed above, or contact the City Manager at 715-839-4902.

THIS COMMENT FORM IS AVAILABLE TO PUBLIC (IN BACK OF  
COUNCIL CHAMBER) AT MONDAY MEETING

## COMMENTS FOR CITY COUNCIL

DATE \_\_\_\_\_

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

I would like to comment on Agenda Item Number \_\_\_\_\_ regarding

\_\_\_\_\_

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

Your comments will be copied and provided to all City Council members.

## **STUDY ISSUE – WORK SESSION**

### ***What is a Study Issue – Work Session?***

A Study Issue – Work Session is an opportunity for the City Council to have a concentrated discussion with a fixed time limit on policy topics of interest. A study issue may be drawn from a wide variety of topics. Typically, the study issue topic will require more extended discussion, research, and refinement before a policy decision is brought to the Council for action. The intent is to bring a study issue topic forward for discussion far enough in advance so that the potential policy implications and choices can be more clearly understood. A Study Issue – Work Session involves the full Council as a committee of the whole in the development of major policy issues that have complex and long-term impacts.

### ***How is a study issue topic generated?***

Generally, study issues are brought forward by the City Manager in response to City Council interest in having a preliminary and open-ended discussion on potential policy matters. Study Issue – Work Sessions are an integral part of the City Council's annual policy work calendar for goal setting and strategic planning. Additional key elements include the traditional 1½- to 2-hour policy work sessions, priority setting planning sessions, and fall budget work sessions.

### ***How will a Study Issue – Work Session be handled on the City Council agenda?***

A Study Issue – Work Session will be placed on the Council Agenda at the end of the Monday night meeting. A Study Issue Summary Sheet will be included as part of the Council agenda packet. The staff presentation will be brief so that the majority of the time is available for Council discussion.

### ***How long will a Study Issue – Work Session take?***

The time limit for any Study Issue – Work Session will be 20 minutes. The City Clerk will set the timer for 20 minutes and discussion will end at that time, regardless of whether work on the topic has been completed. Council Members can identify what additional information or research may be needed for further consideration of the issue. If more work or discussion on a particular issue is needed, the issue can be placed on future Monday night agendas for further discussion.

### ***What if the Monday meeting is long and the City Council prefers to defer discussion?***

The Council can decide to postpone the scheduled Study Issue – Work Session to a future meeting. Because the issue is long range and will not typically require a vote the following Tuesday, postponement or deferral of a Study Issue would not normally be a problem.

### ***Will there be public discussion and testimony during a Study Issue – Work Session?***

It is intended that the public would be able to attend and listen to the discussion during the Work Session portion of the agenda. The Council would not take public testimony or input during the Work Session. It is anticipated that most study issues would ultimately result in a Public Hearing or Public Discussion at a future Council meeting, when a matter is ultimately brought forward for consideration and a decision.

**CITY OF EAU CLAIRE  
CITY COUNCIL STUDY ISSUE**

<b>Study Issue No.:</b>									
<b>Study Issue Title:</b>									
<b>Lead Department:</b>									
<b>City Code, Policy, or Comprehensive Plan Reference:</b>									
<b>1. <u>What are the key elements of the issue? Why is the issue being brought forward?</u></b>									
<b>2. <u>How does this issue relate to existing City codes, policies, or the Comprehensive Plan?</u></b>									
<b>3. <u>What are the potential consequences of not addressing this issue?</u></b>									
<b>4. <u>What should the City's objectives be in addressing this issue?</u></b>									
<b>5. <u>What is the potential fiscal impact of the Study Issue?</u></b>									
<table style="width: 100%; border: none;"><tr><td style="width: 60%;"><b><u>Issue submitted by:</u></b></td><td style="width: 40%;"><b><u>Date:</u></b></td></tr><tr><td><b>Council Member :</b></td><td>_____</td></tr><tr><td><b>Staff:</b></td><td>_____</td></tr><tr><td><b>City Board or Commission:</b></td><td>_____</td></tr></table>		<b><u>Issue submitted by:</u></b>	<b><u>Date:</u></b>	<b>Council Member :</b>	_____	<b>Staff:</b>	_____	<b>City Board or Commission:</b>	_____
<b><u>Issue submitted by:</u></b>	<b><u>Date:</u></b>								
<b>Council Member :</b>	_____								
<b>Staff:</b>	_____								
<b>City Board or Commission:</b>	_____								

## **CITY COUNCIL AGENDA**

### **TUESDAY LEGISLATIVE SESSION**

#### **Legislative Consent Agenda**

Routine business matters are included on the Consent Agenda. All items are listed individually and may be acted upon by utilizing a single vote. Individual items, which any member wishes to address in greater detail or as a separate item on the regular agenda, may be removed from the Consent Agenda upon the request of any Council Member.

Sample items from the Consent Agenda might include the following:

- Commendations and Proclamations
- Minutes
- Licenses
- Items received and referred
- Claims
- Bids

#### **Legislative Business Agenda**

Items on the Business Agenda are voted on individually. Sample items from the Business Agenda might include the following:

- Resolutions
- Ordinances
- Motions
- Charter Ordinances
- Announcements by the City Manager
- Directives to the City Manager



## WELCOME TO THE TUESDAY CITY COUNCIL MEETING

### **PROCEDURE FOR THE LEGISLATIVE SESSION**

1. Agenda items are introduced.
2. Staff Presentation.
3. Council may debate the issue and make motions to amend the resolution or ordinance.
4. Council votes on the item.

### **PUBLIC COMMENT**

The City Council holds a public hearing / public discussion meeting on the Monday evening prior to the Tuesday legislative session. Citizen comments are taken at that time. The public is usually not called upon to speak during the legislative session.

### **CITY COUNCIL MEMBERS**

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Stephen Nick	City Attorney

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The City Council and City staff members are interested in maintaining open communication with citizens. If you have specific questions, opinions, ideas, or concerns regarding the City do not hesitate to contact your Council Representative at his or her number listed above, or contact the City Manager at 715-839-4902.



## Section 5

# Salary & Reimbursement Information

## CITY COUNCIL SALARY AND REIMBURSEMENT INFORMATION

### SALARY

#### Council President

- \$ 3,600 – Annually
- \$ 300 Per Month

#### Council Member

- \$ 3,000 – Annual
- \$ 250 Per Month

### EXPENSE REIMBURSEMENT

Council Members are reimbursed on a monthly basis for the following expenses:

#### Telephone

Council Members receive \$10 per month for the use of their phones for City business.

#### Meals

For most Council-related meetings, just call Cathy Marohl with your reservation. She will respond to the organization and the City will be billed directly for all Council members attending.

Occasionally, Council Members will be required to attend a meeting where payment is made personally. To be reimbursed for a meeting where you were required to purchase your own meal, please list the date, purpose of the meeting, location where meeting was held, and the cost of the meeting and/or meal and give this to Cathy Marohl. Reimbursement will be made in accordance with IRS regulations.

Reimbursement cannot be paid for alcoholic beverages.

## TRANSPORTATION ALLOWANCE

You will receive a base payment of \$37 (which equates to approximately 64 miles per month). This is considered taxable income.

If you drive over 64 miles per month, you may wish to report your actual mileage on the "City Council Monthly Expense Report" form. You will be reimbursed at the rate of 57.5¢ per mile. *If you report actual mileage, your reimbursement is not taxable income.*

## **ATTENDANCE AT CONFERENCES**

The 2015 City Council Budget includes \$17,000 for City Council attendance at meetings and conferences. For Council-related meetings and conferences, just call Cathy Marohl (839-4903) to indicate your interest. She will coordinate the registrations, and the City will be billed directly for all Council members attending.

Additional details regarding City Council travel are available in the following City Council Travel/Training Policy.

## **City Council Travel & Training Policy**

### **I. Introduction**

Training and professional development is an essential part of the City's commitment to excellence. This development may occur through local seminars, state and national conferences, and meetings of professional organizations. Officials are encouraged to remain current in local governance, to enhance their skills, and to exchange ideas through training programs. In addition, participation in these activities by Council Members and Commission Chairs enhances the image of the City of Eau Claire and serves the interests of Eau Claire residents. Officials are encouraged to seek opportunities to support their understanding of government functions, improve services, and develop relevant governing skills.

### **II. The Council Member / Commission Chair Travel and Training Policy has six goals:**

- To determine what activities qualify as authorized travel and training for officials.
- To establish guidelines for travel and training.
- To identify the funding source for travel and training.
- To establish guidelines before, during, and after approved travel.
- To maintain the status of an “accountable plan” under IRS regulations in order to minimize the tax impact for Council Members and Commission Chairs.
- To define standards for reimbursement of eligible expenses.

### **III. Authorization**

Authorized travel and training includes opportunities that Council Members and Commission Chairs can engage in to advocate, present and learn. These activities include, but are not limited to, conferences such as the National League of Cities, League of Wisconsin Municipalities, or local meetings with the Chamber of Commerce and other elected officials.

Travel shall be authorized for (1) training and meetings inside or outside of the city limits and (2) events that allow officials to promote or enhance the image of the City of Eau Claire.

#### **a. Council Members**

Training opportunities for City Council Members will be classified as any opportunity that allows Council Members to learn or gain skills in areas that will

enhance their knowledge about issues relevant to the happenings of the City of Eau Claire, trends in local government, or programs and activities that allow Council Members to gain skills for better governance.

A maximum of five Council Members, (including the council president) will be eligible to travel to the National League of Cities Conference each year. Preference will be given to new Council Members to attend the NLC Conference for the first time. This will allow a City Council Member to attend a national conference at least once every three years. The council president will be eligible to attend one additional out of state conference every year. Any other out-of-state travel to another national conference requires authorization by the City Council.

b. Commission/ Committee/ Board Chairs

Training opportunities for chairs of commissions, committees and boards are classified as meetings, conferences, and classes that allow chairs to share or gain skills or knowledge specific to their committee/ commission/board's mission. The travel and training is limited to the chair positions. Commission Chairs should make a request for travel to the City Manager's office on a first-come, first-served basis. Preference will be given to commission chairs that have not used travel/training funding. These funds can and should be used for travel or training purposes specific to their commission, committee, or board's mission.

The City Manager or his/her designee may review all travel requests for Council Members and Commission Chairs to determine if their requests can be authorized and if their expenses can be reimbursed.

**IV. Source of Funding**

The travel and training accounts for Council Members and Commission Chairs are budgeted in the General Fund in the City Council Program, and are reviewed annually as part of the budget process.

**V. Preparation**

Officials should request authorization for travel and/or training to the City Manager's office no later than one week before their intended travel plans. For overnight travel accommodations, officials should make their request at least one week prior to the early registration discount or deadline. For out-of-state travel accommodations, officials should make their request at least one month prior to early registration deadlines and airfare price adjustments.

**VI. Travel Guidelines**

All Council Members and Commission Chairs are subject to the provisions of the City's Travel and Training Policy, available in the City Manager's office. The travel and training policy describes in detail transportation options, lodging availability, meal allowance, and reimbursement for miscellaneous expenses.

**VII. Reporting**

Upon return from official city travel/training lasting more than one day, each official should submit to the City Manager's office eligible expenses within 10 days after the trip. City Council Members are required to make an oral or written report to the City Council regarding their experiences. If more than one Council Member attended, one report may be made on behalf of all participating Council Members. Commission Chairs shall submit a written report to the City Council regarding their training experiences.



## Section 6

# Outside Organizations & Intergovernmental Meetings

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## **STATE ORGANIZATIONS**

### **The League of Wisconsin Municipalities**

The League of Wisconsin Municipalities is a non-profit organization governed by Wisconsin's city and village officials. Jerry Deschane is the Executive Director and his office is in Madison. The League sponsors "Workshops for New Officials", hosts an annual conference, provides various directories, including the Directory of Wisconsin City and Village Officials, and produces a weekly "Legislative Bulletin" which is provided to all Council Members via e-mail. To learn more, visit [www.lwm-info.org](http://www.lwm-info.org).

### **Urban Alliance**

The League's Urban Alliance is an offshoot of the Wisconsin Alliance of Cities, which ceased operations on January 1, 2011. The League's Board of Directors created the Urban Alliance to ensure that chief executives and finance directors from larger municipalities continue to have a forum to discuss and advocate on issues of concern to urban areas. The Urban Alliance focuses on public policy evaluation and development; public education; and legislative advocacy. The Urban Alliance is a component of the League and operates under the oversight and direction of the League's Board of Directors.

## **DEVELOPMENT ORGANIZATIONS**

### **Gateway Industrial Development Corporation**

The Corporation is a partnership between the City of Eau Claire, Xcel Energy and the Eau Claire Area Economic Development Corporation. The Board of Directors is comprised of the City Manager, the President of Xcel Energy and the President of the Economic Development Corporation.

The Gateway Industrial Development Corporation was formed on March 1, 1985 to promote economic development in the city of Eau Claire. It is a non-profit corporation whose main purpose is to purchase and own industrial land and to construct and lease buildings to industrial clients.

### **Eau Claire Area Economic Development Corporation**

The mission of the Eau Claire Area Economic Development Corporation is advancing economic prosperity through business and job growth. The Corporation's vision is to be a premier center for regional economic development leadership. The City Council President and the City Manager represent the City on the Board of Directors.

### **Momentum West**

The Mission is to develop partnerships and leverage the resources in West Wisconsin to market the region and grow the economy. There are 10 counties represented; the Board of Directors membership is listed on the Momentum West web site.

This group sponsors a "Legislative Day in Madison" early each year. Representatives from the Chippewa Valley travel to Madison to meet with State Legislators for the purpose of highlighting the strengths and needs of the Chippewa Valley.

## **INTERGOVERNMENTAL MEETINGS**

### **Joint Meeting of Chippewa Valley Cities**

The City Councils of Altoona, Augusta, Bloomer, Chippewa Falls, Cornell, Durand, Menomonie and Eau Claire have met for the last several years to get to know each other and discuss matters of mutual interest. The City Councils or Village Boards of Cadott, Elk Mound, Fall Creek, Mondovi and Osseo were recently invited to join the group. The cities take turns hosting these meetings, usually held in months with a fifth Thursday. The group meets three to four times per year.

### **Metropolitan Planning Organization**

The City Council President serves on this Board as a representative of the Eau Claire City Council. The Board is comprised of chief elected officials from all local units of government in Eau Claire and Chippewa Counties. The purpose of the Metropolitan Planning Organization is to carry out a continuing cooperative urban transportation planning process.

### **Joint Commission on Shared Services Initiatives**

Three Council Members serve on this Commission, along with three County Board Members and three School Board Members.

The purpose of the Joint Commission is to identify and examine potential City/County/School District shared services opportunities and to make recommendations to the City Council, County Board, and School Board for approval of concepts and strategies for implementing those shared services that increase efficiency, improve quality, or reduce costs in the delivery of public services, without sacrificing public accountability. Meetings are generally held on the second Thursday of every other month at 7:30 a.m.



## Section 7

# Boards, Commissions & Committees with Council Representation

**City Council Membership  
Boards, Commissions & Committees  
2015 - 2016**

<b>Board/Commission/Committee</b>	<b>Council Representative(s)</b>
Advisory Commission on Sustainability	Andrew Werthmann
Advisory Committee on Appointments	Catherine Emmanuelle Kerry Kincaid Kathy Mitchell
Affirmative Action Committee	Catherine Emmanuelle Michael Xiong
Chippewa Valley Innovation Center Board	Kerry Kincaid
Chippewa Valley Sports Commission	Monica Lewis
Economic Policy Advisory Committee (3 Council Members, including Council Representative serving on Redevelopment Authority*)	Catherine Emmanuelle David Klinkhammer* Eric Larsen
Fiscal Policy Advisory Committee	Eric Larsen Monica Lewis Dave Strobel
City/County Board of Health	Kathy Mitchell
Housing Authority	Michael Xiong
Joint Commission on Shared Services Initiatives	Kerry Kincaid Monica Lewis Kathy Mitchell
Landmarks Commission	Dave Strobel
Library Board	David Klinkhammer
Plan Commission	Eric Larsen Kathy Mitchell
Putnam Park Commission	Tim Tewalt Andrew Werthmann
Redevelopment Authority	David Klinkhammer
Revolving Loan Fund Committee	Monica Lewis
Seven Mile Creek Landfill Standing Committee	Eric Larsen
Special Assessment Deferment Committee	Bob Von Haden
Transit Commission	Michael Xiong
Utility Appeals Board	Tim Tewalt
Visit Eau Claire Board	Catherine Emmanuelle Dave Strobel
Waterways & Parks Commission	Bob Von Haden Andrew Werthmann

## CITY COUNCIL PRESIDENT

The City Council President, by virtue of the office, serves as a board or committee member or City representative to several organizations:

- City Council Advisory Committee on Appointments
- Downtown Eau Claire, Inc. Board
- Economic Development Corporation Board
- Joint Commission on Shared Services Initiatives
- Metropolitan Planning Organization

**Meeting Dates and Times  
of  
Boards, Commissions & Committees  
with  
City Council Representation**

<b>Board/Commission/Committee</b>	<b>Meeting Dates and Times</b>
Advisory Commission on Sustainability	2 <sup>nd</sup> and 4 <sup>th</sup> Monday of first month, 2 <sup>nd</sup> Monday of second month, thereafter alternating, at 3:30 p.m.
Advisory Committee on Appointments	Meet only as needed
Affirmative Action Committee	4 <sup>th</sup> Wednesday of January, April, July and October at 5:15 p.m.
Chippewa Valley Innovation Center Board	3 <sup>rd</sup> Thursday at 7:30 a.m.
Chippewa Valley Sports Commission	Quarterly or as needed, usually a weekday morning
Economic Policy Advisory Committee	To be determined by Committee members
Fiscal Policy Advisory Committee	To be determined by Committee members
City/County Board of Health	4 <sup>th</sup> Wednesday at 5:15 p.m.
Housing Authority	4 <sup>th</sup> Monday at 7:45 a.m.
Joint Commission on Shared Services Initiatives	Usually every other month on the 4 <sup>th</sup> Thursday at 7:30 a.m.
Landmarks Commission	1 <sup>st</sup> Monday at 4:30 p.m.
Library Board	3 <sup>rd</sup> Thursday at 5 p.m.
Plan Commission	1 <sup>st</sup> and 3 <sup>rd</sup> Mondays at 7 p.m.
Putnam Park Commission	Call of Chair
Redevelopment Authority	Usually 3 <sup>rd</sup> Wednesday at 7:30 a.m.
Revolving Loan Fund Committee	Call of Chair
Seven Mile Creek Landfill Standing Committee	Quarterly, usually on a Thursday afternoon at 4 p.m.
Special Assessment Deferment Committee	Call of Chair
Transit Commission	3 <sup>rd</sup> Wednesday at 6 p.m.
Utility Appeals Board	1 <sup>st</sup> Thursday of January, April, July and October at 10 a.m., as needed
Visit Eau Claire Board	Every other month, usually on a Wednesday at 10 a.m.
Waterways & Parks Commission	4 <sup>th</sup> Wednesday at 7 p.m.



## Section 8

# Boards, Commissions, & Committees: General Information

## **FUNCTION OF THE VARIOUS CITY BOARDS**

Standing committees of the City Council consisting of only members of the Council and staff to provide detailed evaluation and make recommendations on specific issues.

- Advisory Committee on Appointments
- Board of Review
- Economic Policy Advisory Committee
- Fiscal Policy Committee

Established as advisory to the City Council consisting of both citizen members and Council representatives.

- Advisory Commission on Sustainability
- Affirmative Action Committee
- Bicycle/Pedestrian Advisory Commssion (\*)
- Landmarks Commission
- Plan Commission (Selected decision making authority)
- Transit Commission (Selected decision making authority)
- Waterways & Parks Commission

Established to hear appeals, make code recommendations, grant licenses, etc. consisting of both citizen members and Council representatives.

- Administrative Review Board (\*)
- Bicycle/Pedestrian Advisory Commission (\*)
- Building Code Committee (\*)
- Board of Hearing Examiners & Appeals (\*)
- Housing Advisory Board (\*)
- Special Assessment Deferment Committee
- Utility Appeals Board
- Zoning Board of Appeals (\*)

Established to act independently with membership appointed by the City Council consisting of both citizens and Council representatives.

- City/County Board of Health
- Housing Authority
- Library Board
- Police & Fire Commission (\*)
- Redevelopment Authority (RDA)

Created for a specific purpose having by-laws or agreements that require Council Member representation and specify criteria for participation.

- Chippewa Valley Innovation Center
- Chippewa Valley Sports Commission
- Joint Commission on Shared Services Initiatives
- Putnam Park Commission
- Revolving Loan Fund Committee (Federal/Uniroyal)
- Senior Center Board
- Veolia (Onyx) Seven Mile Creek Landfill Standing Committee
- Visit Eau Claire Board

(\*) Citizen Membership Only

## **BOARDS, COMMISSIONS AND COMMITTEES**

### **GENERAL INFORMATION**

#### **Citizen Resource Bank**

The City Manager's Office maintains a Citizen Resource Bank made up of residents of Eau Claire whose primary qualification is their interest in participating in City government.

When vacancies occur on boards, commissions, or committees, the City Council Advisory Committee on Appointments draws upon the Citizen Resource Bank for appointment recommendations to the City Council. Special committees are also appointed for the purpose of working on specific projects on an ad hoc basis.

#### **Tenure Rule/Term Limits**

Terms on most City boards, commissions, and committees are limited by a tenure rule. The rule states that members cannot serve more than two complete consecutive terms. If a member is appointed to fulfill an unexpired term, that person may fill two consecutive full terms following the expiration of the initial term.

Some boards and commissions are exempt from the tenure rule, such as the Building Code Committee, Board of Heating Examiners, and City/County Board of Health. Notation is made on committee listings if the tenure rule does not apply.

## **APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES**

The City has had a Tenure Rule in effect since 1973. The Tenure Rule specifies that membership shall be “limited to two consecutive terms or six years of consecutive service, whichever is greater.” There are some boards created under State Statute which are exempt from this Tenure Rule, but it does apply to all Boards and Committees created by the City Council.

Citizens give of their time to serve on a City Council board, committee or commission. When an individual’s full term expires, he or she is eligible for reappointment. Unless the Tenure Rule were to be changed or there was some specific problem, it might appear that the City Council is not appreciative of that individual’s contributions if they were not asked if they would be willing to serve another term.

Each April, City Council members are provided with a complete set of all Citizen Resource Bank forms on file. As new forms are received in the City Manager’s Office these are copied and sent to all City Council members. Citizens can also complete and submit the forms on the city Web site. Council Members may contact any of the Advisory Committee on Appointments members to share their thoughts on possible appointees.

In the past, recommendations for appointments were made by the City Manager. In the late 1980’s, at the request of the City Manager, this process was changed and the Advisory Committee on Appointments was set up to include two members of the City Council and the City Manager. In August 2010, the City Council amended the charter ordinance to change the membership of the committee to consist of three Council members only.

City staff members who work with these individual committees may, from time to time, share their thoughts with the Advisory Committee on Appointments as to what kind of expertise would be helpful. Sometimes staff may indicate that a committee could benefit from a broader representation of neighborhoods or with membership from all sides of the city, sometimes there is a need for a more even gender balance, sometimes specific professional expertise or personal experience would be helpful. The Advisory Committee on Appointments looks at current membership on the board or committee, takes into consideration any suggestions, and then reviews all Citizen Resource Bank forms for those specifying an interest in serving on the committee being discussed. They then come up with a recommendation to the City Council.

The data base for the Citizen Resource Bank is maintained in the City Manager’s Office and is always available to the City Council and members of the public. Public Notice is given for all Advisory Committee on Appointment meetings and anyone is welcome to attend.

RESOLUTION

Resolution offered by Councilman Schaff.

BE IT RESOLVED by the City Council of the City of Eau Claire:  
That in order to encourage a more widespread citizen participation in governmental affairs, the City Council does herewith state its approval and adopts the following policy as a guide with respect to tenure of office of members of all City Boards, Commissions and Committees except the Board of Electrical Examiners, Board of Heating Examiners and Appeals and any other board, commission or committee where necessity dictates a departure from this policy, as follows:

Tenure on these boards, commissions and committees shall be limited to two consecutive terms or six (6) years of consecutive service, whichever is greater. After one (1) year of absence from said board, commission or committee such appointee may again be considered for reappointment to such board, commission or committee. For the purpose of this resolution, length of tenure on one board, commission or committee shall not be deemed to be tenure on any other board, commission or committee.

This resolution shall supersede all other resolutions in conflict therewith.

The effective date of this resolution shall be August 1, 1973.

Simultaneous service on more than one Board, Commission or Committee should be avoided if possible.

Leo Schaff

Adopted,

April 25, 1973



## **Citizen Resource Bank Form**

Thank you for your interest in becoming involved with a City of Eau Claire Board, Committee or Commission. The City's Advisory Committee on Appointments will make recommendations to the City Council for placement based, in part, on your responses to the following questions; please provide us with some information to use when considering your appointment by completing the questions below. You are welcome to attach additional information such as your resume or vitae that may further support your appointment. Return this form to the City Manager's Office at P.O. Box 5148, Eau Claire, WI 54702-5148, For additional information, visit the City's Web Site at [www.eauclairewi.gov](http://www.eauclairewi.gov), or call the City Manager's Office at 839-4902. This form will stay on file for three years.

Name:	
Home Address:	Zip Code:                      Home Phone:
E-Mail Address:	
Business Name:	
Business Address:	Business Phone:
Years as an Eau Claire Resident, if applicable:	
Which Boards, Commissions and/or Committees interest you? You may choose more than one from the list provided on the back of this form. Please indicate your order of preference, with (1.) being the most preferred.	
1.	4.
2.	5.
3.	6.
Why are you interested in serving on these particular Committees?	
What qualifications can you bring to these Committees?	
On what other City committee(s) are you currently serving, if any?	
Other Community Involvement:	
Occupation/Employer, if applicable:	

References (3): Name; Address, Phone; Relationship	
1.	
2.	
3.	
Signature:	Date:

A list of existing Boards, Commissions and Committees (including general information) is included below. Please consider becoming a part of this important community resource group.

Board, Commission or Committee	Meeting Dates and Times
Administrative Review Board (hears appeals on withholding of various licenses and permits)	Meet only as needed
Advisory Commission on Sustainability	To be determined.
Affirmative Action Committee	4 <sup>th</sup> Wednesday of January, April, July, October at 5:15 p.m.
Bicycle/Pedestrian Advisory Commission	3 <sup>rd</sup> Tuesday at 6 p.m.
Building Code Committee	Meet only as needed
City/County Board of Health	4 <sup>th</sup> Wednesday at 5:15 p.m.
Board of Heating Examiners and Appeals	Meet only as needed
Housing Advisory Board (hears Housing Code violation appeals)	Meet only as needed
Housing Authority	4 <sup>th</sup> Monday at 7:45 a.m.
Landmarks Commission	1 <sup>st</sup> Monday at 4:30 p.m.
Library Board	3 <sup>rd</sup> Thursday at 5 p.m.
Plan Commission	1 <sup>st</sup> and 3 <sup>rd</sup> Mondays at 7 p.m.
Police and Fire Commission	3 <sup>rd</sup> Thursdays in January, March May, July, Sept., Nov. at 4 p.m.
Putnam Park Commission	Call of Chair
Redevelopment Authority	Usually 3 <sup>rd</sup> Wednesday at 7:30 a.m.
Revolving Loan Fund Committee	Call of Chair
Senior Center Board	Monthly; Set by the Board
Special Assessment Deferment Committee	Call of Chair
Transit Commission	3 <sup>rd</sup> Wednesday at 6 p.m.
Utility Appeals Board	1 <sup>st</sup> Thursday of January, April, July and October at 10 a.m. <i>as needed</i>
Waterways and Parks Commission	4 <sup>th</sup> Wednesday at 7 p.m.
Zoning Board of Appeals	1 <sup>st</sup> Tuesday at 7 p.m. <i>as needed</i>

This form will stay on file for five years.



## Section 9

# Boards, Commissions, & Committees: Descriptions

**ADMINISTRATIVE REVIEW BOARD**  
**(Created by City Ordinance in 2005 - Chapter 1.06.050;**  
**Original Ordinance was amended on March 13, 2007**  
**to replace the two Council representatives with two citizen members,**  
**and to add two alternate members to the Board)**

**MEMBERSHIP:**

The Administrative Review Board shall consist of five citizen members appointed and approved by the City Council. Two alternate members shall be appointed to sit in the absence of regular members. All members shall be residents of the City, each having a 2-year term. The Board shall elect a president and secretary annually.

**APPOINTED BY:**

City Council.

**TERM:**

Two years.

**MEETINGS:**

The Board shall meet as needed to hold hearings within 30 days of the date of filing an appeal, or at such time as agreed upon.

**DUTIES:**

Review administrative determinations, i.e., decisions made by an agency, board, or department of the City that adversely affect a person's rights, duties, or privileges. An opportunity for a hearing would be provided to persons contesting a decision.

The Board is quasi-judicial in nature, meaning that the Board members sit as a panel of judges. The Board members are not legislators. The importance of that distinction is that they must decide cases fairly on the facts and determine whether the party requesting the variance has met his or her burden of proof. They should not entertain or be influenced by personal or political considerations. For this reason, it is inadvisable for members to serve on other City boards or commissions.

The Board shall have the power to affirm or reverse the administrative decision. Three affirmative votes are required to reverse an administrative determination.

**1.06.050 Administrative review board.**

A. The Eau Claire city council hereby creates an administrative review board. The board shall consist of 5 persons appointed and approved by the Eau Claire city council. Board members shall be residents of the city of Eau Claire each having a 2 year term. The board shall elect a president and secretary annually. The board may adopt rules of procedure.

B. The administrative review board shall meet as needed to hold hearings within 30 days of the date of filing of an appeal or at such time as agreed upon.

C. The Eau Claire city council hereby duly authorizes the administrative review board to hold hearings and issue decisions under s. 1.06.060 below. Participation by a city council member in the proceedings of the administrative review board shall not disqualify said member from participating in further proceedings before the city council.

D. The city council shall appoint and approve 2 alternate board members, each having a 2 year term. The city council shall designate one of the alternates as the first alternate, the other as the second alternate. The first alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the board so refuses or is absent. (Ord. 6752, 2007; Ord. 6746 §2, 2007; Ord. 6567, 2005).

Ordinance No. 6752

ORDINANCE

AN ORDINANCE TO AMEND S. 1.06.050 OF THE CODE OF ORDINANCES OF THE CITY OF EAU CLAIRE ENTITLED "ADMINISTRATIVE REVIEW BOARD"

THE CITY COUNCIL OF THE CITY OF EAU CLAIRE DO ORDAIN AS FOLLOWS:

*That s. 1.06.050, entitled "Administrative review board", is hereby amended as follows:*

*Subsection A. thereof is amended to read as follows:*

A. The Eau Claire city council hereby creates an administrative review board. The board shall consist of 5 persons appointed and approved by the Eau Claire city council. ~~Of the 5 persons, 2 persons shall be city council members each having a one year term and 3 persons~~ Board members shall be residents of the city of Eau Claire each having a 2 year term. The board shall elect a president and secretary annually. The board may adopt rules of procedure.

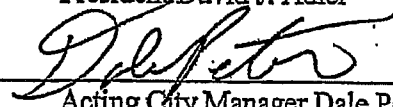
*Subsection D. is created to read as follows:*

D. The city council shall appoint and approve 2 alternate board members, each having a 2-year term. The city council shall designate one of the alternates as the first alternate, the other as the second alternate. The first alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the board so refuses or is absent.

(SEAL)

  
President David J. Adler

(SEAL)

  
Acting City Manager Dale Peters

(ATTESTED)

  
City Clerk Donna A. Austad

First Reading February 27, 2007

Final Reading March 13, 2007

Adopted March 13, 2007

Published March 18, 2007

\*\*\*\*\*  
Motion to adopt the ordinance:

Seconded by:

  
David J. Adler

  
Raymond Hughes

**ADVISORY COMMISSION ON SUSTAINABILITY**  
**(Created by Council Ordinance 7077, December 10, 2013)**  
**Ordinance Amended March 11, 2014)**

**MEMBERSHIP:**

The Advisory Commission on Sustainability consists of nine members, eight citizen members and one member of the City Council.

The citizen members of the commission shall be selected from among community members having a demonstrated interest in environmental stewardship; sustainable business practices, development or technology; green building and design; renewable energy; energy efficient transportation; and recycling and waste management. To the extent possible, members appointed shall represent a diverse range of interest and expertise in sustainability, economic backgrounds and interests, and ethnic and cultural affiliations, including educators and students in the aforementioned fields.

**APPOINTED BY:**

The City Council.

**TERM:**

Three-year terms for citizen members. (Initial members will be appointed to one-year, two-year and three-year terms.) The Council Member representative shall serve a one-year term.

**MEETINGS:**

Determined by Commission members.

**DUTIES:**

The Commission has the following duties and responsibilities:

- A. Promote community wide awareness of sustainability through educational campaigns and other initiatives.
- B. Provide a forum for addressing public concerns related to sustainable policies and practices.
- C. Prepare an annual commission work plan to carry out specific projects within the scope of Chapter 2.06 of the Code of Ordinances.
- D. Provide advice to the City Council which reflects community values on sustainable policy and practices relative to the community's sustainable environment, including natural resources, energy, food, waste, hazardous materials, and pollution.
- E. Advise the city council and city manager on maintaining alignment with the various city goals and commitments relative to sustainable policies and practices.
- F. Review and provide recommendations to the city council on the Sustainability Chapter and its implementation plan, the Wisconsin Green Tier Legacy Community program's sustainability strategies, and other such plans authorized by the council.
- G. Work on such other sustainability-related projects as directed by the city council or the city manager.

For more information, please contact the Community Development Department: (715) 839-4914.

**2.04.015 City officials--Election.** A. Primary--when required. Pursuant to the provisions of ss. 8.11(1)(b) and 66.01, Wis. Stats., whenever the number of candidates filing nomination papers for a city office exceeds two times the number to be elected to such office, a primary to nominate candidates for the office shall be held in accordance with the provisions of the Wisconsin Statutes.

B. Not eligible for more than one office. No candidate for city office is eligible to appear on the ballot for more than one city office at the same election. (Charter Ord. 5321 §§1, 2, 1993).

**2.04.020 Officers--Election.** The election of officers under the form of government so adopted shall be held as provided by law upon the first Tuesday in April next succeeding the adoption of the charter ordinance codified in Sections 2.04.010 through 2.04.040, 2.12.010, Chapter 2.16, Sections 2.24.010, 2.24.020, 2.28.010, 2.32.010, 2.36.010 through 2.36.070 and Chapter 2.40. (Prior code §1.01 II).

**2.04.030 Reorganization--Purpose.** It is recognized that a sound organization pattern is necessary for the efficient operation of any business, public or private; and that in city government an organizational plan is needed which will fix responsibility and authority and place similar and related functions in the proper department. It is further recognized that there must be a limited span of direct control for effective administration and that departmental organization established under Section 2.04.040 provides for such control and the most efficient administrative organization. (Charter Ord. 3778 §2, 1977; Prior code §1.03 I).

**2.04.040 City departments.** The following departments are created:

Public works	Finance
Parks and recreation	Planning and development
Police	Human resources
Fire	City attorney

(Charter Ord. 4491 §1, 1984; Charter Ord. 3778 §3, 1977).

**2.04.050 Appointment to boards and commissions.** A. Except as provided under subsection B., appointments to all boards, commissions, committees or other similar entities to which appointments are made by the city council, including those established by state law or city ordinance or resolution, shall be made by the city council, following receipt of a recommendation thereon of an advisory committee comprised of the city council president and 2 members of the city council.

B. The appointment of a member of the city council to a board or commission shall not be subject to the provisions contained in subsection A. but shall be made directly by the city council. (Charter Ord. 6935 §1, 2010; Charter Ord. 5733, 1997; Charter Ord. 4705 §2, 1987).

**2.04.060 Acting city manager.** The city manager may, in writing filed in the office of the city clerk, appoint an acting city manager who, during the absence or disability of the city manager, shall perform the duties and responsibilities of the city manager. When so appointed, the acting city manager shall have the same powers, obligations and authority as the city manager. The acting city manager may participate as a member with full power and authority on those boards, committees, commissions or other bodies of which the city manager is a member, unless, in the opinion of the acting city manager, such participation is in conflict with the principal duties and responsibilities of the acting city manager. (Charter Ord. 4862 §2, 1988).

## **Chapter 2.06**

### **ADVISORY COMMISSION ON SUSTAINABILITY**

#### **Sections:**

**2.06.010 Declaration of public policy.**

**2.06.015 Definitions.**

**2.06.020 Creation and purpose.**

**2.06.030 Commission governance.**

**2.06.035 Officers.**

**2.06.040 Duties and responsibilities.**

**2.06.050 Meetings and agendas.**

**2.06.060 Staffing.**

**2.06.010 Declaration of public policy.** The City Council finds that the needs of the present should be met without compromising the ability of future generations to meet their own needs. To that end, the protection, stewardship, improvement, and promotion of the environment is a public necessity and is required in the interest of the health, prosperity, safety, and welfare of the Eau Claire community for present and future generations.

**2.06.015 Definitions.** In this chapter: A. "City manager" means the city manager or the designee of the manager.

B. "Commission" means the Advisory Commission on Sustainability.

C. "Sustainability Chapter" means the Sustainability Chapter of the City of Eau Claire's Comprehensive Plan, as adopted and amended from time to time.

D. "Sustainable" means meeting the needs of the present without compromising the ability of future generations to meet their own needs.

**2.06.020 Creation and purpose.** The Advisory Commission on Sustainability is hereby created to:

A. Advise the city council and city manager on practices, plans and policy matters related to becoming a more sustainable community.

B. Raise community awareness, understanding, and appreciation of matters related to sustainability and sustainable development.

C. Collaborate with residents, businesses, community organizations, educational institutions, area governmental bodies, and others in achieving improved sustainable practices and policies in the community.

**2.06.030 Commission governance.** A. The commission shall consist of nine members, eight of whom shall be appointed pursuant to subsection 2.04.050 A. for staggered 3-year terms. One shall be a member of the city council appointed pursuant to subsection 2.04.050 B. for a term of one year.

B. The members of the commission shall be selected from among community members having a demonstrated interest in environmental stewardship; sustainable business practices, development or technology; green building and design; renewable energy; energy efficient transportation; and recycling and waste management. To the extent possible, members appointed shall represent a diverse range of interest and expertise in sustainability, economic backgrounds and interests, and ethnic and cultural affiliations, including educators and students in the aforementioned fields.

C. In making initial commission appointments, the city council shall stagger the terms so that the term of the initial city council member expires in 2015; and the terms of two commissioners expire in 2015, three commissioners in 2016, and three commissioners in 2017. Subsequent appointments shall be made pursuant to subsection A. above.

D. Except for the city council member, appointments of all members shall continue until their successors are appointed and qualified.

E. Any vacancy on the commission shall be filled in the same manner as the original appointment for the residue of the unexpired term.

F. Unless otherwise provided by city ordinance, the commission may adopt bylaws covering rules and procedure. In the absence thereof, the commission shall abide by such rules of order and procedure customarily used by other city committees and commissions. (Ord. 7084, 2014)

**2.06.035 Officers.** At the first meeting of the commission after initial appointments have been made, the commission shall elect from its membership a chairperson, vice-chairperson and such other officers as may be designated by the commission for one year terms. (Ord. 7084, 2014)

**2.06.040 Duties and responsibilities.** The commission shall be accountable to the city council for the following program advice, duties and responsibilities:

A. Promote community wide awareness of sustainability through educational campaigns and other initiatives;

B. Provide a forum for addressing public concerns related to sustainable policies and practices.

C. Prepare an annual commission work plan to carry out specific projects within the scope of this chapter.

D. Provide advice to the city council which reflects community values on sustainable policy and practices relative to the community's sustainable environment, including natural resources, energy, food, waste, hazardous materials, and pollution.

E. Advise the city council and city manager on maintaining alignment with the various city goals and commitments relative to sustainable policies and practices.

F. Review and provide recommendations to the city council on the Sustainability Chapter and its implementation plan, the Wisconsin Green Tier Legacy Community program's sustainability strategies, and other such plans authorized by the council.

G. Work on such other sustainability-related projects as directed by the city council or the city manager.

**2.06.050 Meetings and agendas.** A. The commission shall hold regular meetings not less than quarterly each year, and may hold special meetings at the call of the chair, any three commissioners, or the city council. All such meetings are subject to the provisions of ss. 19.83 through 19.85, Wis. Stats., the Wisconsin Open Meetings Law.

B. Pursuant to s. 19.84 (1), Wis. Stats., the commission chairperson or the designee of the chairperson shall prepare an agenda for all meetings of the commission in consultation with the city manager. An item may be placed on the agenda by the chair, the city manager, or any two members of the commission.

**2.06.065 Staffing.** The city manager shall appoint a staff designee and such other staff deemed necessary to assist the commission. (Ord. 7077, 2013)

**ADVISORY COMMITTEE ON APPOINTMENTS**  
**(Created by Charter Ordinance 2.04.050, January 28, 1987)**  
**(Ordinance amended on August 24, 2010)**

**MEMBERSHIP:**

The Committee consists of the City Council President and two City Council Members.

**APPOINTED BY:**

The appointments are made at the Annual Organizational Meeting.

**TERM:**

One year.

**MEETINGS:**

The Committee meets as needed, when terms expire or a vacancy occurs on a Council-appointed Board, Committee or Commission.

**DUTIES:**

The Advisory Committee on Appointments reviews the Citizens Resource Bank and makes recommendations to the City Council for individuals to be appointed to the various City Boards, Commissions and Committees.

**2.04.050 Appointment to boards and commissions.** A. Except as provided under subsection B., appointments to all boards, commissions, committees or other similar entities to which appointments are made by the city council, including those established by state law or city ordinance or resolution, shall be made by the city council, following receipt of a recommendation thereon of an advisory committee comprised of the city council president and 2 members of the city council.

B. The appointment of a member of the city council to a board or commission shall not be subject to the provisions contained in subsection A. but shall be made directly by the city council. (Charter Ord. 6935 §1, 2010; Charter Ord. 5733, 1997; Charter Ord. 4705 §2, 1987).

**AFFIRMATIVE ACTION COMMITTEE**  
**(Created by Council Resolution - June 27, 1973)**

**MEMBERSHIP:**

Affirmative Action Committee membership shall be 7 members as follows:

- 2 women members
- 1 member from an ethnic minority
- 1 member from labor (any of whom may be a city employee or citizen member)
- 1 citizen member
- 2 members of City Council

The Director of Human Resources is ex-officio member and the Assistant to the Director of Human Resources is the Affirmative Action Officer.

**APPOINTED BY:**

The City Council.

**TERM:**

Three years.

**MEETINGS:**

The Committee meets quarterly or more often as required.

**DUTIES:**

Each year the Affirmative Action Officer and the Committee will measure the effectiveness of the Affirmative Action Plan and the need for change. The Officer, with the guidance of the Committee, will recommend any changes to the Affirmative Action Plan that will promote nondiscrimination and diversity in employment practices.

RESOLUTION

Resolution offered by Councilman Kopplin.

BE IT RESOLVED by the City Council of the City of Eau Claire: That the City Council hereby goes on record in declaring its intention to promulgate an Affirmative Action Program in conformity with Federal and State law and regulations as soon as reasonably possible, and

BE IT RESOLVED that in pursuance thereof, the responsibility and authority for the development and implementation of such Affirmative Action Program shall be assigned to a person to be known as the Affirmative Action Officer to be designated by the City Manager and Director of Human Resources and confirmed by the City Council. Such officer shall have a background which demonstrates commitment to affirmative action. The Affirmative Action Officer shall have full access to all departmental records, policies and procedures, rules and regulations, including personnel files, documents, background investigation reports and other informational documents relating to the employment, training, promotion, transfer, termination or discipline of personnel in the City of Eau Claire. All such information so obtained shall be confidential and shall not be divulged except upon authorization by the City Manager or Director of Human Resources. The Affirmative Action Officer shall submit reports, at least quarterly each year, to the City Manager on the progress of such Affirmative Action Program. The Affirmative Action Officer shall be directly responsible to the City Manager and Director of Human Resources.

BE IT FURTHER RESOLVED that an Affirmative Action Committee be appointed by the City Manager and confirmed by the City Council. Such Affirmative Action Committee shall consist of five members as follows: two women members, one member from an ethnic minority, one member from labor, and one member from the City Council, all of whom shall be committed to the extension of employment opportunities for women and ethnic minorities. The members may be City employees or citizen members.

The initial committee members shall be appointed on the following basis: one member shall be appointed to a 1-year term, two members shall be appointed to 2-year terms, and two members shall be appointed to 3-year terms. Thereafter, all appointments shall be for 3 years. No individual shall serve on the Affirmative Action Committee more than 6 continuous years. The Committee shall elect its own chairman by majority vote of all the committee members and shall meet at least quarterly or on call of the chairman or by two members. The Director of Human Resources and the Affirmative Action Officer shall be ex-officio, non-voting members of the Committee. The Affirmative Action Committee shall review, recommend and approve the City-wide department Affirmative

Action goals and timetables as proposed by the Affirmative Action Officer. The committee shall encourage women and minority group members to bring forth their grievances and shall advise and support them in carrying their grievances through the proper channels.

BE IT FURTHER RESOLVED that the amount of \$1,000 be and is hereby appropriated from the contingency account for usual and necessary expenses incurred in connection with the implementation and operation of the City's Affirmative Action Program.

Richard Kopplin

Adopted, June 27, 1973

RESOLUTION

Resolution offered by Council Member Johnson.

BE IT RESOLVED by the City Council of the City of Eau Claire: That the Affirmative Action Committee membership shall be changed to 7 members as follows: 2 women members, 1 member from an ethnic minority, and 1 member from labor, any of whom may be a City employee or citizen member, a citizen member and 2 members from the City Council; and

BE IT FURTHER RESOLVED that the staggered terms of non-City Council committee members previously established by City Council resolution establishing the Affirmative Action Committee, dated June 27, 1973, shall continue, and the citizen member added by this resolution shall have an initial term expiring June 30, 1984, and shall thereafter serve a term of 3 years; and

BE IT FURTHER RESOLVED that the term of the City Council members shall be one year, expiring on the date of initial meeting of the City Council following each regular City election; and

BE IT FURTHER RESOLVED that the provisions of the resolution promulgating an Affirmative Action Program and establishing an Affirmative Action Committee, among other things, adopted by the City Council on June 27, 1973, be and are hereby amended insofar as they are inconsistent with the provisions of this resolution; otherwise they shall remain in full force and effect.

Elaine P. Johnson

Adopted, April 27, 1983

**BICYCLE/PEDESTRIAN ADVISORY COMMISSION**  
**Created by City Ordinance June 13, 2006; Chapter 2.66**

**MEMBERSHIP:**

The Bicycle/Pedestrian Advisory Commission consists of ten citizen members.

**APPOINTED BY:**

The City Council.

**TERM:**

The members of the Commission serve three-year terms.

**MEETINGS:**

The Commission will hold regular meetings on the third Tuesday of each month at 6 p.m., and may hold special meetings at the call of the chair or at the request of the City Council.

**DUTIES:**

The Commission shall have the following duties and responsibilities:

- A. Provide advice in the development of a bicycling master plan;
- B. Provide advice in the development of a pedestrian/sidewalk master plan;
- C. Provide guidance in the establishment of a list and prioritization of recommended bicycle and pedestrian facility improvements;
- D. Make recommendations on bicycle/pedestrian matters with an emphasis on policy and planning issues;
- E. Periodically review the results of policy implementation to ensure that the bicycle and pedestrian related goals of the Comprehensive Plan are being met;
- F. Advise the City Council about citizen concerns regarding bicycle and pedestrian transportation matters;
- G. Make recommendations on how to improve institutional and professional responsiveness to promote non-motorized transportation;
- H. Educate and inform the public and local officials on bicycle, pedestrian, and multi-modal transportation issues;
- I. Facilitate citizen participation in local government considerations and decisions involving bicycle, pedestrian, and multi-modal transportation matters;
- J. Promote bicycle, school, and pedestrian safety program;
- K. Advise the City Council on ways to promote accessibility of bicycle and pedestrian pathways to persons with disabilities using motorized or non-motorized transportation; and
- L. Advise the City Council on other non-motorized transportation, such as, but not limited to, inline skates and skateboards.

## AN ORDINANCE

AN ORDINANCE TO CREATE CHAPTER 2.66 OF THE CODE OF ORDINANCES OF THE CITY OF EAU CLAIRE ENTITLED "BICYCLE/PEDESTRIAN ADVISORY COMMISSION"

THE CITY COUNCIL OF THE CITY OF EAU CLAIRE DO ORDAIN AS FOLLOWS:

*That Chapter 2.66, entitled "Bicycle/Pedestrian Advisory Commission", is hereby created to read as follows:*

### Chapter 2.66

#### BICYCLE/PEDESTRIAN ADVISORY COMMISSION

##### Sections:

- 2.66.010 Creation.
- 2.66.020 Purpose and intent.
- 2.66.030 Composition.
- 2.66.040 Procedure.
- 2.66.050 Duties and responsibilities.
- 2.66.060 Meetings.

2.66.010 Creation. A bicycle/pedestrian advisory commission for the city of Eau Claire is hereby created.

2.66.020 Purpose and intent. It is hereby declared a matter of public policy that the protection, improvement, and enhancement of the city transportation system to ensure safe and efficient movement of people and goods, and provide a variety of mode choices, while enhancing neighborhood livability and resident quality of life, is a public necessity and is required in the interest of the health, prosperity, safety, and welfare of the community. The purpose of this chapter is to:

- A. Provide substantive advice and guidance to the city council on bicycle and pedestrian related issues to help the community achieve the objectives outlined in the comprehensive plan;
- B. Provide a balanced and efficient transportation network that offers viable alternatives to driving and maximizes the use of existing investment;
- C. Improve pedestrian connections to create a continuous and seamless pedestrian system;
- D. Enhance the pedestrian environment to create a more walkable community;
- E. Continue to build a connected bicycle route and trail network that is viable, convenient, safe, and secure; and
- F. Encourage both utilitarian and recreational bicycling.

2.66.030 Composition. A. The bicycle/pedestrian advisory commission shall consist of ten (10) members, which shall be recommended by the advisory committee on appointments and confirmed by the city council.

B. To the extent feasible, both transportation and recreational interests shall be represented, including, but not limited to bicycling organizations, organizations concerned with education and safety, business organizations, private citizens concerned with non-motorized transportation such as commuting, persons with disabilities, the aging community, recreational enthusiasts, and students.

C. The members of the commission shall elect to serve a one (1) year term a chair, vice-chair, secretary, and other officers as may be necessary from among the membership at the first meeting of the commission, after all appointments have been made. Said officers shall thereafter be elected for a one (1) year term, each year, at the first meeting after new appointments to the commission have been made.

D. The directors of public works, parks and recreation, and community development, or their designees, shall serve as ex-officio, non-voting members and support staff to the commission.

**2.66.040 Procedure.** A majority of the commission shall constitute a quorum. The commission shall adopt such by-laws as appropriate to further govern its proceedings.

**2.66.050 Duties and responsibilities.** The commission shall have the following duties and responsibilities:

- A. Provide advice in the development of a bicycling master plan;
- B. Provide advice in the development of a pedestrian/sidewalk master plan;
- C. Provide guidance in the establishment of a list and prioritization of recommended bicycle and pedestrian facility improvements;
- D. Make recommendations on bicycle/pedestrian matters with an emphasis on policy and planning issues;
- E. Periodically review the results of policy implementation to ensure that the bicycle and pedestrian related goals of the comprehensive plan are being met;
- F. Advise the city council about citizen concerns regarding bicycle and pedestrian transportation matters;
- G. Make recommendations on how to improve institutional and professional responsiveness to promote non-motorized transportation;
- H. Educate and inform the public and local officials on bicycle, pedestrian, and multi-modal transportation issues;
- I. Facilitate citizen participation in local government considerations and decisions involving bicycle, pedestrian, and multi-modal transportation matters; and
- J. Promote bicycle, school, and pedestrian safety programs.
- K. Advise the City Council on ways to promote accessibility of bicycle and pedestrian pathways to persons with disabilities using motorized or non-motorized transportation.
- L. Advise the City Council on other non-motorized transportation, such as, but not limited to, in-line skates and skateboards.

**2.66.060 Meetings.** The commission shall hold regular meetings as may be provided by its by-laws, and may hold special meetings at the call of the chair or at the request of the city council.

(SEAL) President David J. Adler

(SEAL) Interim City Manager Brian G. Amundson

(ATTESTED) City Clerk Donna A. Austad

First Reading May 23, 2006

Final Reading June 13, 2006

Adopted June 13, 2006

Published June 18, 2006

\*\*\*\*\*  
Motion to adopt the ordinance:  
David Duax

Seconded by:  
Berlye S. Middleton

\*\*\*\*\*

**BOARD OF REVIEW**  
**(State Statute 70.46; City Ordinance 2.48.010)**

**MEMBERSHIP:**

The Board of Review is comprised of the City Council, City Manager, City Clerk and City Treasurer (Finance Director). Other City staff members attend the meetings of the Board as necessary. For a member of the Board to be qualified to vote on modifying an assessment, the member must attend the hearing relating to that valuation or have reviewed a transcript, mechanical recording, or summary of the hearing.

**APPOINTED BY:**

The Board of Review is established by State Statute and City Ordinance. All proceedings must be taken in full by a stenographer or recording device.

**MEETINGS:**

The Board of Review is required to meet at some time during the 30-day period beginning the 2<sup>nd</sup> Tuesday of May. The actual date of the meeting varies depending on the completion date of the Assessment Roll. Public notice of the meeting is given at least 15 days before the meeting. The initial meeting convenes at 8 a.m. The Board must stay in session for a minimum of two hours. State law requires that all meetings of the Board be publicly held and open to all citizens at all times, even during deliberations on appeals.

The Board may adjourn from time to time as necessary and adjourn sine die after all hearings are completed.

**DUTIES:**

The Board initially reviews the Assessor's assessment roll and corrects any errors. When satisfied, the Board formally accepts the assessment roll.

The Board then hears the objections of taxpayers to the valuation of their property. Certain required procedures must be followed by the Board in hearing these objections.

Following the completion of the Board's determination, the Clerk prepares a summary of the proceedings.

70.46

**70.46 Boards of review; members; organization.**

70.46(1)



(1) Except as provided in sub. (1m) and s. 70.99, the supervisors and clerk of each town, the mayor, clerk and such other officers, other than assessors, as the common council of each city by ordinance determines, the president, clerk and such other officers, other than the assessor, as the board of trustees of each village by ordinance determines, shall constitute a board of review for the town, city or village. In cities of the 1st class the board of review shall by ordinance in lieu of the foregoing consist of 5 to 9 residents of the city, none of whom may occupy any public office or be publicly employed. The members shall be appointed by the mayor of the city with the approval of the common council and shall hold office as members of the board for staggered 5-year terms. Subject to sub. (1m), in all other towns, cities and villages the board of review may by ordinance in lieu of the foregoing consist of any number of town, city or village residents and may include public officers and public employees. The ordinance shall specify the manner of appointment. The town board, common council or village board shall fix, by ordinance, the salaries of the members of the board of review. No board of review member may serve on a county board of review to review any assessment made by a county assessor unless appointed as provided in s. 70.99 (10).

70.46(1a)



(1a) Whenever the duties of assessor are performed by one of the officers named to the board of review by sub. (1) then the governing body shall by ordinance designate another officer to serve on the board instead of the officer who performs the duties of assessor.

70.46(1m)



(1m)

70.46(1m)(a)



(a) A person who is appointed to the office of town clerk, town treasurer or to the combined office of town clerk and town treasurer under s. 60.30 (1e) may not serve on a board of review under sub. (1).

70.46(1m)(b)



(b) If a town board of review under sub. (1) had as a member a person who held the elective office of town clerk, town treasurer or the combined office of town clerk and town treasurer, and the town appoints a person to hold one or more of these offices under s. 60.30 (1e), the town board shall fill the seat on the board of review formerly held by an elective office holder by an elector of the town.

70.46(2)



(2) The town, city or village clerk on such board of review and in cities of the first class the commissioner of assessments on such board of review or any person on the commissioner's staff designated by the commissioner shall be the clerk thereof and keep an accurate record of all its proceedings.

70.46(3)



(3) The members of such board, except members who are full time employees or officers of the town, village or city, shall receive such compensation as shall be fixed by resolution or ordinance of the town board, village board or common council.

70.46(4)



(4) No board of review may be constituted unless it includes at least one voting member who, within 2 years of the board's first meeting, has attended a training session under s. 73.03 (55) and unless that member is the municipality's chief executive officer or that officer's designee. The municipal clerk shall provide an affidavit to the department of revenue stating whether the requirement under this subsection has been fulfilled.

2.48.010-2.50.020

Chapter 2.48

BOARD OF REVIEW\*

2.48.010 Board composition. The city manager, members of the city council, city clerk and city treasurer shall constitute the board of review for the city, and it is determined that each member of the board shall receive no additional salary or compensation for the duties and services rendered and performed as a member of such board. (Prior code §1.12).

**BUILDING CODE COMMITTEE**  
**(Created by Ordinance - 16.04.160)**

**MEMBERSHIP:**

Five members. At least one must be a registered architect, at least one a registered professional engineer, and one shall be a member of the Eau Claire Area Home Builders Association or an individual currently active in the home building field. No Council members serve on this Committee.

**APPOINTED BY:**

The City Council.

**TERM:**

Three years. (no tenure)

**MEETINGS:**

All meetings shall be held at the call of the Chair and at such times as the Committee may determine. In addition to the called meetings of the Committee, the Building Code Committee shall meet annually to review code.

**DUTIES:**

To hear appeals under the building code by persons aggrieved by an interpretation of the code. The Board also makes recommendations to amendments to the code.

If a recommendation is made to change the code, the recommendation is sent to the City Council to amend the ordinance. The Board makes certifications of new materials or methods of construction.

**16.04.160 Building code committee.** A. Creation and Membership. For the purpose of considering amendments, appeals, and the approval of new building materials or methods, there is created a building code committee. The committee shall consist of five members appointed by the city manager and confirmed by the city council, at least one of whom shall be a registered architect, at least one of whom shall be a registered professional engineer and at least one of whom shall be a member of the Eau Claire area home builders association or an individual currently active in the home building field.

Of the members first appointed hereunder, one shall be appointed to a one-year term, two shall be appointed to a two-year term and two shall be appointed to a three-year term. Thereafter, the term of office shall be three years. The term of office for the initial appointees under this subsection shall commence as of July 1, 1972.

B. Appeals. An appeal may be taken to the building code committee by any person, firm or corporation, or by any officer, department, board or bureau, aggrieved by a decision of the building inspector. Application for appeal may be made when it is claimed that:

**CHIPPEWA VALLEY INNOVATION CENTER BOARD**  
**(Agreement adopted by Council Resolution;**  
**Membership on Board Specified in By-Laws)**

**MEMBERSHIP:**

The Board includes representatives from the City of Eau Claire, Eau Claire County, University of Wisconsin-Eau Claire, Chippewa Valley Technical College, Chippewa Valley Development Corporation, Greater Eau Claire Area Chamber of Commerce, West Central Wisconsin Private Industry Council, Eau Claire Area Economic Development Corporation, Chippewa County Economic Development Corporation, Chippewa County and Xcel Energy.

**APPOINTED BY:**

Members are appointed by their respective organizations.

**TERM:**

City Council members are appointed for one-year terms at the annual organizational meeting.

**MEETINGS:**

The Board meets the third Thursday of each month at 7:30 a.m. at the Innovation Center.

**DUTIES:**

The Board of Directors sets policy to govern the operation of the Chippewa Valley Innovation Center, including approval of budget and tenants.

The Chippewa Valley Innovation Center is a community-based non-profit development corporation, which provides technical, financial and managerial assistance in a low-cost facility to area entrepreneurs. The mission of the CVIC is to provide assistance to entrepreneurs, while creating new job opportunities for residents in the Chippewa Valley.

## Bylaws of Chippewa Valley Incubation Center

### Article I. Offices

- 1.01 The registered office of the corporation shall be located within the County of Eau Claire, Wisconsin, as the Board of Directors may designate from time to time.

### Article II. Membership

- 2.01 The corporation shall have no members.

### Article III. Board of Directors:

- 3.01 General Powers. The business and affairs of the corporation shall be managed under the direction of a Board of Directors. The original Board of Directors shall be those individuals as designated by the incubator funding sources whose terms shall be as set forth therein. The Board of Directors shall have full power to act on behalf of the corporation as permitted by the statutes of the State of Wisconsin, the Articles of Incorporation, and these bylaws, as shall be amended from time to time.
- 3.02 Composition of the Board of Directors. The Board of Directors shall be composed of such persons as may be elected by the Board of Directors. However, at least one person from each of the seven original funding sources shall be represented on the Board.
- 3.03 Number, Tenure, and Qualification. The number of directors shall not be less than seven, nor more than the 12, stated the Articles of Incorporation. Each director shall hold office for a term of three years or until his or her successors shall have been elected or qualified. The membership of the Board of Directors shall be divided into classes so that the term of approximately one-fourth of each of the Board shall expire each year. At each annual meeting of the Board of Directors, one class shall be elected to serve on the Board of Directors for a term of three years from the date of the annual meeting or until the respective successors shall be elected.

**CHIPPEWA VALLEY SPORTS COMMISSION**  
**(Membership Specified in By-Laws;**  
**Council Members Appointed Annually by Resolution)**

**MEMBERSHIP:**

The Board shall consist of Directors as shown in the following Classes, but shall not exceed the designated number of Directors. The Board shall have no fewer than 11 Directors at any given time.

- **Class I: Elected Directors**

- 2 – Private Sector Investors

- 1 – Director from the Board of Directors (CVB Board) of the Chippewa Valley Convention & Visitors Bureau, Inc. (CVB) (This Director will be a non-Eau Claire City Council member)

- **Class II: Agency/Governmental Directors**

- 1 – Representative from each funding governmental body, elected by the respective governmental body

- 1 – Director of Parks & Recreation Department from each funding community

- 1 – Athletic Director from UW Eau Claire

- 1 – Athletic Director from UW Stout

- 1 – First Vice-Chair of the CVB Board (non-Eau Claire City Council member) (This Director is to hold the Second Vice-Chair seat on the Corporation's Executive Committee)

- 1 – Executive Director of the CVB

- **Class III: Honorary Directors** (non-voting)

The Board may from time to time at its discretion designate as Honorary Directors those persons whose service has, in the judgement of the Board, been outstanding. Honorary Directors shall be privileged to attend Board meetings and speak to any subject being considered by the Board, but shall not be entitled to vote.

- **Class IV: Ex-Officio** (non-voting)

- 1 – CVB Sales & Marketing Director

- 1 – CVB Sports Sales Manager

**APPOINTED BY:**

The governmental bodies shall appoint their respective elected officials. No designees or substitutions for agency or governmental director positions are allowed. Any vacancy in Class I or Class II shall be filled only by the successor to the office in which such vacancy shall occur, and qualification in said office shall constitute the appointment to the Board.

**TERMS:**

One City Council member is appointed for a one-year term at the annual organizational meeting.

**MEETINGS:**

The Commission meets quarterly and/or as needed. The meetings are usually held on weekday mornings.

**MISSION STATEMENT:**

The Sports Commission exists to establish the Chippewa Valley as a premier Sports Mecca in the Midwest, attracting and hosting events ranging from local and state events to national events, developing local facilities increasing opportunities for sports participation by area residents and increasing visitor spending and economic impact in the region.

BY LAWS OF  
CHIPPEWA VALLEY SPORTS COMMISSION, INC.

ARTICLE III

MEMBERSHIP

**SECTION 1. Membership.** The corporation shall have no members; however, the Board of Directors, by a majority vote of the members of said Board, may recognize contributions to the Chippewa Valley Sports Commission by an appropriate certificate of recognition which may, if the Board so desires, designate the recipient as an Honorary Member of the Board. Such designation shall be honorary only and shall not create a class of membership or confer any property or voting rights.

ARTICLE IV

BOARD OF DIRECTORS

**SECTION 1. BOARD OF DIRECTORS.** The Board of Directors of this corporation shall consist of at least one representative from each of the following categories, but shall not exceed the designated number of representatives. Furthermore, the Board of Directors of this corporation shall not have fewer than 11 Directors at one given time.

**Class I: Elected Directors**

- 1.- Elected Official from each funding governmental body
- 2 - Private Sector Investors
- 1 - Director of the CVCVB Board of Directors (non-city council)

**Class II: Agency Directors**

- 1 - Director of Parks & Recreation Department from each funding community
- 1 - Athletic Director from UW Eau Claire
- 1 - Athletic Director from UW Stout
- 1 - Director of the Eau Claire YMCA**
- 1 - First Vice-Chair of the CVCVB Board of Directors (non-city council)  
(Holds the Second Vice-Chair seat on the Sports Commission Executive Committee)
- 1 - Executive Director of the CVCVB

**Class III: Honorary Directors (Non-voting)**

The Board of Directors may from time to time at its discretion designate persons whose service has, in the judgement of the Board, been outstanding, as Honorary Directors. Honorary Directors shall be privileged to attend Board meetings and speak to any subject being considered by the Board, but shall not be entitled to vote.

**Class IV: Ex-Officio (Non-voting)**

- 1-CVCVB Director of Sales & Marketing
- 1-CVCVB Sports Sales Manager

The governing body they represent shall appoint the elected officials. No designees for elected officials or agency positions are allowed. Any vacancy in Class I or II shall be filled only by the successor to the office in which such vacancy shall occur and qualification in said office shall constitute the appointment to the Board of Directors of this corporation.

**DOWNTOWN EAU CLAIRE, INC. (DECI) BOARD**  
**(Created by Council Resolution when the**  
**Eau Claire Downtown Action Agenda 2001 was adopted)**

**MEMBERSHIP:**

The Downtown Eau Claire, Inc. Board consists of 18 members:

- City Council President (or designate)
- 6 members by organization
  - Chair of the Redevelopment Authority (or designate)
  - Chair of the Downtown Business Improvement District Board (or designate)
  - Chair of the West Grand Avenue Business Improvement District Board (or designate)
  - Regional Arts President (or designate)
  - Eau Claire City Manager (or designate)
  - Chair of the Eau Claire County Board (or designate)
- 6 members shall reflect the diverse balance of Downtown's major employers, financial institutions, property owners, business and non-business activities or persons with an interest in Downtown
- 4 members will be representatives of the Downtown and adjacent neighborhoods
- Past President of the Downtown Eau Claire, Inc. Board (non-voting)

**APPOINTED BY:**

The original DECI Board was appointed by the City Council. Future DECI members will be appointed by the DECI Board.

**TERM:**

**One-Year Term**

Past President of the Downtown Eau Claire, Inc. Board (non-voting)

**Two-Year Term**

Four representatives of the Downtown and adjacent neighborhoods

Six members representing Downtown's diverse balance, etc.

**Perpetual Term**

City Council President or designate

Six members by organization

**MEETINGS:**

The DECI Board generally meets on the first Wednesday of every month at 7:30 a.m.

**DUTIES:**

The Downtown Eau Claire, Inc. Board was created to implement the Downtown Action Agenda 2001. DECI is to provide strong, visible leadership for downtown issues by bringing together the public and private sectors for decisions. DECI will increase the coordination and cooperation among downtown organizations and provide policy direction to staff. DECI will ensure that there is public involvement and participation in downtown revitalization. The City Council may ask DECI for recommendations on downtown issues, including funding public improvements and redevelopment projects.

**RESOLUTION**

**RESOLUTION APPROVING THE EAU CLAIRE DOWNTOWN ACTION AGENDA 2001 AS THE OVERALL GUIDE FOR ENHANCEMENT OF THE DOWNTOWN AND AUTHORIZING THE CITY MANAGER TO TAKE NECESSARY AND APPROPRIATE ACTIONS LEADING TO CREATION OF A DOWNTOWN PARTNERSHIP BOARD OF DIRECTORS AND CREATION OF A CITIZEN INVOLVEMENT PLAN.**

**WHEREAS**, the greater Eau Claire downtown area includes the Historic Waterfront area along South Barstow; the North Barstow area, including Banbury Place; the Medical Center area; and the Courthouse area; and

**WHEREAS**, the downtown area has continued to experience a cycle of decline with significant economic disinvestment, declining retail and commercial trade, and persistent building vacancies; and

**WHEREAS**, the City of Eau Claire contracted with the National League of Cities and HyettPalma, Inc. to prepare a comprehensive, action-oriented, and market driven strategy to refocus the Eau Claire community's enhancement efforts for the downtown; and

**WHEREAS**, HyettPalma, Inc. held a community forum, worked with a twenty-three member advisory Process Committee appointed by the City Council, completed extensive retail, office, and housing marketing analyses of the downtown, completed extensive surveys of downtown businesses and residents, conducted focus group discussions with downtown organizations, employees, and customers, and

**WHEREAS**, HyettPalma, Inc. prepared the Eau Claire Downtown Action Agenda 2001 which identified a comprehensive economic revitalization strategy for the downtown and called for creation of a renewed public-private partnership known as the Downtown Partnership, which would be incorporated as a non-profit organization to provide community leadership for implementation of the Downtown Action Agenda.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Eau Claire that the Eau Claire Downtown Action Agenda 2001 is hereby approved as the overall guide for public strategies and actions related to the marketing and redevelopment of the downtown, and shall be used by the City Council in determining priorities and approving future public improvements for the downtown.

**BE IT FURTHER RESOLVED**, that the City Manager is hereby directed to develop final implementation plans for Option #3 (as attached) with said option to be implemented for a three year trial period, with annual review, and

**BE IT FURTHER RESOLVED**, that the City Manager is directed to solicit letters of interest from individuals interested in serving as members of the Downtown Partnership; said letters shall be considered by the Appointments Committee with final recommendations to the City Council on October 9, and

**BE IT FURTHER RESOLVED** that the City Manager is directed to create a Citizen Involvement Plan for consideration by the City Council.

**BE IT FURTHER RESOLVED**, that the City Manager is directed to develop an interim budget to provide staff services to the Downtown partnership for the remainder of 2001 in accordance with Option #3.

Adopted  
September 18, 2001

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Motion to adopt the resolution.

Neng Lee

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Seconded by:

Beverly Boettcher

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### ALTERNATIVE STRATEGIES FOR ADDRESSING THE EAU CLAIRE DOWNTOWN ACTION AGENDA

	OPTION ONE	OPTION TWO	OPTION THREE	OPTION FOUR
	<b>Advisory Commission</b>	<b>Redevelopment Authority</b>	<b>Downtown Partnership with City Staff</b>	<b>Downtown Partnership with Separate Staff</b>
<b>OPTION OVERVIEW</b>	Create a Downtown Advisory Commission to make recommendations to the City Council, similar to Waterways Commission	Charge the RDA with the responsibility to implement the physical improvement projects recommended in the Action Agenda	Create a Downtown Partnership as a separate organization, with by-laws approved by the City Council, per HyettPalma but staffed by the City's Economic Development Division, with offices in City Hall.	Create a Downtown Partnership as a separate organization with separate staff per HyettPalma
<b>OPTION PURPOSE</b>	To provide a minimal policy response in acknowledging formally the Action Agenda and to provide an ongoing downtown forum for discussion of downtown concerns	To recognize and fund the RDA as the lead agency in initiating and completing major public and private redevelopment projects in the downtown	To implement the Action Agenda <del>as amended by citizen input in compliance with the Citizen Involvement Plan</del> but using City staff expertise to reduce costs and insure coordination between the City and the Downtown Partnership	To implement the Action Agenda as specifically recommended by HyettPalma
<b>USE OF ACTION AGENDA</b>	No action required by City Council to adopt or approve the Action Agenda. Downtown Advisory Commission may use Action Agenda as a general reference when providing comments and recommendations to City Council	Action Agenda formally adopted by City Council and RDA as the general guide for downtown redevelopment. Used by the RDA as the formal statement of its priorities for downtown redevelopment and physical improvement projects, but not including festivals/events, housing, or marketing projects recommended in the Action Agenda.	Action Agenda formally adopted by City Council and the Downtown Partnership as the overall guide for decisions and actions related to downtown redevelopment and marketing. Used by the Council as the key guide to funding public improvements and by the Downtown Partnership as the approved strategic plan for setting its specific organizational and project priorities.	Action Agenda formally adopted as written by City Council and the Downtown Partnership as a six year project plan to be implemented as stated. Incorporated by the Council into the City's adopted CIP and used by the Downtown Partnership as the established list of projects and priorities for the organization.

DOWNTOWN PARTNERSHIP MISSION	Not applicable	Not applicable	<p><b>(1)Implement Action Agenda as- <del>amended by citizen input in</del> compliance with the Citizen Involvement Plan; (2)Bring together public/private sectors for decisions; (3)Set timelines and stimulate actions by others;</b></p> <p><b>(4)Increase coordination and cooperation among downtown entities; (5)Provide policy direction to staff; (6)Provide strong, visible, positive community leadership for downtown; (7)Ensure ongoing public involvement and participation in downtown revitalization</b></p>	<p><b>(1)Implement Action Agenda;</b>  <b>(2)Bring together public/private sectors for decisions; (3)Set timelines and stimulate actions by others; (4)Increase coordination and cooperation among downtown entities; (5)Provide policy direction to staff; (6)Provide strong, visible, positive community leadership for downtown.</b></p>
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BOARD COMPOSITION	City Council appoints an 11 member advisory commission, established by ordinance, to review and comment on issues referred by the Council. Citizen members would be appointed to represent downtown's diverse property and business interests.	RDA as currently established.	City Council appoints initial 47 18 member board which incorporates and has a subsequent self-generating board per HyettPalma. Members include: (1) Council President; (2) Council member chosen by Council; (3) City Manager or designate; (4) County Board Chair or designate; (5) Downtown BID representative; (6) West Grand BID representative; (7) RDA Chair or designate; (8) Arts Council president or designate; (9) - (12) downtown or adjacent residential neighborhood representatives; (10) - (13) - (18) & 6 members reflecting diverse balance of downtown's major employers, financial institutions, property owners, businesses, and non-business activities. All Board Members are to be city residents or own a business in the affected area.	City Council appoints initial 15 member board which incorporates and has a subsequent self-generating board per HyettPalma. Members include: (1) Council President; (2) Council member chosen by Council; (3) City Manager, (4) BID president; (5) West Grand BID president; (6) RDA Chair; (7) Luther/Midelfort CEO; (8) Arts Council President; (9) Bank CEO; (10) major downtown property owner; (11) major downtown business owner; (12) major downtown real estate developer; (13) community leader; (14) community leader; (15) community leader.
STAFFING IMPACTS	No additional staff. Increase annual work program of Planning and Economic Development staff by 75-100 hours annually for support of Downtown Advisory Commission.	Add 1 City professional staff support under direction of Economic Development administrator for expanded RDA activities.	Add 2 1 City professional staff and 1 administrative support staff for Downtown Partnership under direction of Economic Development Administrator. Assumes contract with BID to provide maintenance services	Add Executive Director and 2 professional and administrative support staff under direct oversight and direction of Partnership Board of Directors. Assumes contract with BID to provide maintenance services.

<p>DOWNTOWN BUSINESS COMMITTEE</p>	<p>No action</p>	<p>No action</p>	<p>Downtown Partnership appoints 9-11 member Downtown Business Committee as standing committee of retailers, food establishment owners, and interested business people to: (1) coordinate promotions, events, advertising; (2) communicate concerns of Downtown business people to Partnership Board.</p>	<p>Downtown Partnership appoints 9-11 member Downtown Business Committee as standing committee of retailers, food establishment owners, and interested business people to: (1) coordinate promotions, events, advertising; (2) communicate concerns of Downtown business people to Partnership Board.</p>
<p>OPERATIONAL COSTS</p>	<p>Add \$1000 to Economic Development Division budget for mailings, agendas, and materials for support of Downtown Advisory Commission</p>	<p>Increase RDA annual budget by \$35,000-\$40,000 for additional professional support. Increase RDA annual acquisition/project budget by \$300,000-\$500,000</p>	<p>Fund Partnership annual budget at \$400,000-\$410,000 for staff, marketing, and operations. Fund one-time cost of \$12,000 for work space remodeling and computers</p>	<p>Fund Partnership annual budget at \$210,000-\$225,000 for staff, marketing, operations, and office. Fund one-time cost of \$18,000 for work space remodeling/computers</p>
<p>IMPACTS ON CITY CENTER</p>	<p>No change. City continues to contribute \$55,000 annually. City Center Corporation continues to coordinate maintenance, events, festivals, and marketing.</p>	<p>No change. City continues to contribute \$55,000 annually. City Center Corporation continues to coordinate maintenance, events, festivals, and marketing.</p>	<p>Eliminate City's annual \$55,000 support for City Center.</p>	<p>Eliminate City's annual \$55,000 support for City Center.</p>
<p>IMPACTS ON CLEARWATER</p>	<p>No change.</p>	<p>No change.</p>	<p>Restructure Clearwater to provide a stronger project development and gap financing organization, based directly on the Gateway model.</p>	<p>Restructure Clearwater to provide a stronger project development and gap financing organization, based directly on the Gateway model.</p>
<p>IMPACTS ON RDA</p>	<p>No change.</p>	<p>Greatly expanded budget and role for RDA in acquisition and physical redevelopment.</p>	<p>No change.</p>	<p>No change.</p>
<p>IMPACTS ON DOWNTOWN BID</p>	<p>No change.</p>	<p>No change</p>	<p>Contract with Downtown Partnership or City organization for BID maintenance. As alternative, BID assumes direct responsibility for maintenance.</p>	<p>Contract with Downtown Partnership or City organization for BID maintenance. As alternative BID assumes direct responsibility for maintenance.</p>

IMPACTS ON WEST GRAND BID	No change.	No change.	No change.	No change.
COMMENTS	Maintains status quo. Acknowledges receipt of Action Agenda and provides public forum for continuing discussion of downtown issues.	Implements physical improvement recommendations of Action Agenda. Does not address marketing and public-private partnership issues and recommendations.	Implements Action Agenda <del>as amended by citizen input</del> in compliance with the Citizen Involvement Plan.	Implements Action Agenda

RESOLUTION

**RESOLUTION APPOINTING AN INITIAL BOARD OF DIRECTORS FOR THE  
EAU CLAIRE DOWNTOWN PARTNERSHIP AND APPROVING AN INTERIM 2001  
BUDGET.**

WHEREAS, the City Council of the City of Eau Claire recognizes that significant economic revitalization of the downtown is essential to the long term economic and cultural well-being of the Eau Claire community; and

WHEREAS, the City Council of the City of Eau Claire has approved the Eau Claire Downtown Action Agenda 2001 as an overall guide for public strategies and actions related to the marketing and redevelopment of the downtown; and

WHEREAS, the City Council of the City of Eau Claire has directed the City Manager to develop final implementation plans for Option #3.


NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Eau Claire that the individuals listed on Attachment A are hereby appointed as the initial Downtown Partnership Board of Directors; and

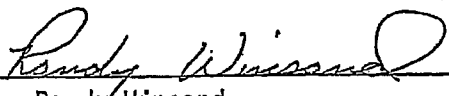
BE IT FURTHER RESOLVED, that interim 2001 costs for the Downtown Partnership shall be funded from existing appropriations in the City's Economic Development Fund.

Adopted,

October 23, 2001

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Motion to adopt the resolution.

  
\_\_\_\_\_  
Jane Tappen  
Seconded by:

  
\_\_\_\_\_  
Randy Winsand

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### Initial Downtown Partnership Board of Directors

#### **Organization Representatives**

City Council President – Howard White  
City Council Member – Terri Stanley  
City Manager or Designate – Mike Huggins  
Eau Claire County Board Chair or Designate – Robert Tollefson  
Downtown BID representative – Fred Kappus  
Redevelopment Authority Chair or Designate – Jane Tappen  
West Grand BID representative – Webster Hart  
Arts Council President or Designate – Peter Provost

#### **Neighborhood Representatives**

Stan Carpenter, Third Ward Neighborhood Association  
Marty Fisher-Blakeley, Historic Randall Park Neighborhood Association  
Bernie Trettin, North River Fronts Neighborhood Association  
Suzie Slota, East Side Hill Neighborhood Association

#### **Business Representatives**

Linda Clark  
Debbie Foster  
George Gagnon  
John Lawler  
Jim Vaudreuil  
Tami Schraufnagel

**BY-LAWS OF  
DOWNTOWN EAU CLAIRE, INCORPORATED**

Amended January 5, 2011

Article 1. General

1.1 Downtown Eau Claire, Incorporated (hereinafter "Corporation") is a non-profit corporation under the laws of the State of Wisconsin whose purpose is to promote the development of business and cultural resources and activities within the physical boundaries of the Eau Claire Downtown area (hereinafter "Downtown").

1.2 The Corporation shall only engage in activities that are in the purview of section 501(C) (6) of the Internal Revenue Code of 1954, as now or hereinafter amended. No part of the net earnings of the Corporation shall inure to the benefit of any of its members or any other individual; and the Corporation shall not participate in, or intervene in, any political campaign on behalf of any candidate for public office.

1.3 The Corporation's permanent, registered agent shall be the Executive Director, who shall maintain a business office within the boundaries of Downtown.

Article 2. Boundaries

2.1 The Downtown area is a central geographic section of the City of Eau Claire with unique historical, business, community, and physical characteristics. This area is identified in the Eau Claire Downtown Action Agenda 2001. The Downtown area also includes the Water Street business district. The Corporation shall confine a majority of its activities to the Downtown.

2.2 The boundaries of the Downtown area may be enlarged or diminished by amendment to these by-laws.

2.3 In the event the Corporation maintains a business office, it shall be within the boundary areas of the Downtown area of the City of Eau Claire.

Article 3. Membership

Members shall be: all citizens of the City of Eau Claire, contributing businesses and individual members.

Article 4. Board of Directors

4.1 The Board of Directors of the Corporation shall consist of twenty-one individuals. Each year seven directors (hereinafter "Elected Directors") shall be

elected to a two-year term at the annual meeting by a majority vote of the directors. Of these seven, two shall be representatives of the Downtown and adjacent neighborhoods, three shall reflect the diverse balance of Downtown's major employers, financial institutions, property owners, business, and non-business activities, also including persons with an interest in Downtown, and two shall be individuals or representatives of businesses who are located anywhere in the City and are community supporters of DECI's mission. The remaining seven directors (hereinafter "Perpetual Directors") shall consist of the following: 1) the Eau Claire City Manager or designate; 2) the Eau Claire City Council President or designated Council member; 3) a representative of the South Barstow Business Improvement District; 4) a representative of the West Grand Avenue Business Improvement District; 5) a representative of the North Barstow/Medical Business Improvement District; 6) a representative of the University of Wisconsin-Eau Claire; and 7) a representative of the Water Street Business Improvement District.

4.1.1 The term of office for all fourteen Elected Directors shall be two years. All new Elected Director terms commencing as of the 2011 annual meeting shall follow the tenure rule. For Elected Directors at midterm at the 2011 annual meeting, the tenure rule shall commence as of the 2012 annual meeting. The tenure rule specifies that service shall be limited to 2 consecutive terms, and after one year absence from the Board, an Elected Director may be considered for reelection to the Board. The calculation of the 2 two year terms shall not include service performed in filling an unexpired term.

4.1.2 Of the initial four Elected Directors who are individuals or representatives of businesses who are located anywhere in the City and are community supporters of DECI's mission and are elected pursuant to Par. 4.1 above, two shall serve a term of one year and two shall serve a term of two years, all commencing at the 2011 annual meeting.

4.1.3 Elected Directors shall be elected at the annual meeting by a majority vote of the Board of Directors.

4.2 In the event of one or more vacancies of an elected position on the Board of Directors between annual meetings, the Board may, by majority vote, at a regular or specially called Board of Directors' meeting, appoint a new Elected Director. This director shall serve only until the next annual meeting, at which time the director may be nominated for an additional term or the nominating committee may nominate a replacement.

4.2.1 Any Elected Director may resign by submitting notice of resignation to the secretary.

4.2.2 After written notice and an opportunity to be heard, any Elected Director may be removed from office at any time, for cause, by the affirmative vote of two-thirds of the directors in office.

4.3 In the event of one or more vacancies of a perpetual position on the Board of Directors between annual meetings, the outgoing Perpetual Director or his or her organization may designate a representative from their organization to act until such time as the position is filled.

4.4 All directors shall serve without compensation, but they may be reimbursed for actual or necessary expenses incurred on behalf of the Corporation, if approved by the Board of Directors or Executive Committee.

4.5 Elected Directors are disqualified from voting on nominations for replacement of their position, or extension for their own term.

4.6 The past-president may serve in an advisory capacity as a member of the Board of Directors for one year after serving as president. The past-president shall be a non-voting member unless he or she is serving on the Board of Directors in another capacity as a voting member.

#### Article 5. Officers

5.1 The officers of the Corporation shall be a president, vice-president, secretary, and treasurer. The president, vice-president, secretary, and treasurer shall be elected from the membership of the Board of Directors by a majority vote of the Board of Directors, at the first regularly scheduled meeting after each annual meeting.

5.2 The president shall preside at all meetings of the Corporation except as otherwise authorized by resolution of the Board of Directors.

5.3 The vice-president shall perform the duties of president in the absence or incapacity of the president; in case of the resignation or death of the president, the vice-president shall perform such duties as are imposed upon the president until such time as the Board of Directors shall elect a replacement president.

5.4 The secretary shall be responsible for all records, documents, and other papers required to be maintained. The secretary shall keep a record of the proceedings of the Board and the Corporation, and shall perform such other duties as may be designated to the secretary by the Board of Directors or required by law.

5.5 The treasurer shall oversee the financial records of the Corporation, and together with the Executive Director is authorized by resolution of the Board of Directors to review and sign financial papers, shall approve all vouchers for

expenditures of funds of the Corporation and make periodic reports to the Board of Directors.

The City of Eau Claire Economic Development Administrator, or such person as determined by the Eau Claire City Manager, shall serve as the Executive Director. The Executive Director shall maintain the financial records of the Corporation, and together with another person authorized by the Board of Directors to review and sign financial papers, shall approve all vouchers for the expenditure of funds of the Corporation and make periodic reports to the Board of Directors.

Each year, not more than 60 days after the City Council approves the City of Eau Claire budget, the Board of Directors shall consider and approve an itemized budget. The annual budget may be amended by the Board of Directors from time-to-time upon the receipt of grants, contributions, or other funds, or as otherwise necessary.

5.6 Officers of Downtown Eau Claire Incorporated will serve for no more than two (one-year) consecutive complete terms per position. The vice president will serve as president following the end of the current president's term. At the determination of the current president, the past-president may serve in an advisory capacity (non-voting) on the Executive Committee for one year following his/her term as president.

#### Article 6. Meetings

6.1 An annual meeting shall be held in January of each calendar year. The Corporation shall send written or e-mail notice of each annual meeting to all directors at least 30 days in advance of each annual meeting. Said notice shall state the date and time at which the annual meeting is to be held. The annual meeting may be held at a convenient location other than that of the registered agent or the business office. The annual meeting shall be open to all members and a notice of the annual meeting shall be published at least 15 days prior to the meeting.

6.2 The Board of Directors shall hold meetings on dates and at locations determined by the Board of Directors by resolution, provided that the Board shall meet at least once each calendar quarter. These meetings may be recessed and continued to another date as necessary.

6.3 Special meetings of the Board of Directors may be called by the president of the Corporation at a convenient place and time, provided that: 1) not less than fifteen (15) days notice has been given to all Board members; or 2) consent in writing to such a meeting has been obtained from each absent director.

6.4 If a member of the Board of Directors is not in attendance at three consecutive meetings of the Board of Directors, the organization shall appoint a designee if a perpetual member, or shall be removed from office if an elected member.

#### Article 7. Quorum

7.1 The quorum necessary for a meeting of the Board of Directors shall be eleven directors. All meetings of the Board of Directors and the annual meetings shall be conducted under the most recent edition of Robert's Rules of Order, revised.

7.2 The quorum necessary for a meeting of the Executive Committee shall be a majority of the members of the committee.

#### Article 8. Committees

8.1 The president, vice-president, secretary, and treasurer, and an additional director selected by the president, shall constitute an Executive Committee of the Board of Directors. The Executive Committee shall perform duties at the direction of the Board of Directors. The Executive Director shall be a non-voting member of the Executive Committee. The past-president shall be a non-voting member of the Executive Committee unless he or she is serving on the Executive Committee in another capacity as a voting member.

8.2 The Board of Directors may appoint one or more Standing Committees.

8.3 A Nominating Committee will be elected by the Board each year for the purpose of presenting a qualified slate of candidates for election to the Board of Directors and for election to the offices of president, vice-president, secretary and treasurer.

#### Article 9. Liability and Indemnification

9.1 The directors shall not be personally liable for the debts, liabilities, or other obligations of the Corporation.

9.2 The directors and officers of the Corporation shall be indemnified by the Corporation to the fullest extent permissible under the laws of the State of Wisconsin.

9.3 Except as may be otherwise provided under provisions of law, the Board of Directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the Corporation (including director, officer, employee, or other agent of the Corporation) against liabilities asserted against or incurred by the agent in such capacity or arising out of the agent's status as

such, whether or not the Corporation would have the power to indemnify the agent against such liability under the Articles of Incorporation, these Bylaws, or provisions of law.

#### Article 10. Amendments

10.1 The By-Laws of the Corporation may be amended at any regular or special meeting of the Board of Directors by a two-thirds vote of the Board members present. No such amendment shall be adopted unless at least ten (10) days written notice thereof has previously been given to all directors.

Approved by a vote of the Board of Directors on January 5, 2011.

**ECONOMIC POLICY ADVISORY COMMITTEE**  
**(Established by Council Resolution on May 11, 1993)**

**MEMBERSHIP:**

Three members of the City Council, one of whom is the Council representative on the Eau Claire Redevelopment Authority.

*(The membership originally consisted of one Council representative on the Convention and Visitors Bureau Board, the Council representative on the Redevelopment Authority, and one Council member selected by the City Council. The membership of the Committee was amended by Council resolution on January 23, 2001.)*

**APPOINTED BY:**

The members are appointed by the City Council at the annual Organizational Meeting.

**TERM:**

One year.

**MEETINGS:**

As determined by the members of the Committee.

**DUTIES:**

The overall purpose of the Economic Policy Advisory Committee is to advise the City Council and make policy recommendations in matters of economic development and economic growth, which affect the City of Eau Claire.

The Committee has the responsibility of acting as a clearinghouse for economic development issues, to include but not limited to, review of proposals submitted for the purpose of stimulating economic growth and development in the community, such as

- Industrial development projects
- Tourism and convention proposals
- Downtown redevelopment projects; and
- Community Redevelopment Authority projects.

The Committee serves to facilitate, and not duplicate, the work of the other economic development groups and organizations within the City.

Economic Policy Advisory Committee  
(continued)

The Committee has a proactive role in dealing with the retention and growth of existing local industries, which role is to be carried out in cooperation with the Industrial Development Corporation and its committees. The Committee may be authorized to sponsor recognition events and to undertake tours and appreciation events on behalf of the City Council.

The Committee assists the City Council in enhancing the relationships between all economic development agencies in the Eau Claire area.

RESOLUTION

A RESOLUTION ESTABLISHING AN ECONOMIC POLICY ADVISORY COMMITTEE.

Resolution offered by Council Member Nielsen.

WHEREAS, the City Council desires to take those actions which are reasonable and necessary to advance the economic development of this community and area, and

WHEREAS, the City Council deems it desirable that a committee of the Council be established to carry out various duties and responsibilities in the area of economic policy and development and to assist the Council in this area,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Eau Claire that the City Council hereby establishes an Economic Policy Advisory Committee, and

BE IT FURTHER RESOLVED that the Economic Policy Advisory Committee shall consist of three members of the City Council, one of whom shall be the member appointed to serve on the Eau Claire Redevelopment Authority; one of whom shall be the member appointed to serve on the board of the Eau Claire Convention and Tourism Bureau; and the third member to be selected from the remaining members of the City Council; and in the event one Council member serves as Council representative to the Redevelopment Authority and the Eau Claire Convention and Visitors Bureau, then one additional member shall be selected from the remaining members of the Council, and

BE IT FURTHER RESOLVED that the overall purpose of the Economic Policy Advisory Committee shall be to advise the City Council and make policy recommendations in matters of economic development and economic growth which affect the City of Eau Claire, and

BE IT FURTHER RESOLVED that the Committee shall have the further duty and responsibility of acting as a clearinghouse for Economic Development issues, to include, but not be limited to, review of proposals submitted for the purpose of stimulating economic growth and development in the community, such as the following:

- Industrial development projects;
- Tourism and convention proposals;
- Downtown development projects; and
- Community redevelopment authority projects, and

BE IT FURTHER RESOLVED that the Committee shall facilitate, but not duplicate, the work of the other economic development groups and organizations within the City, and

BE IT FURTHER RESOLVED that the Committee shall have a proactive role in dealing with the retention and growth of existing local industries, which role shall be carried out in cooperation with the Industrial Development Corporation and its committees, and

BE IT FURTHER RESOLVED that the Committee may be authorized to sponsor recognition events and to undertake tours and appreciation events on behalf of the City Council, and

BE IT FURTHER RESOLVED that the Committee shall assist the City Council in enhancing the relationships between all economic development agencies in the Eau Claire area, and

BE IT FURTHER RESOLVED that the existence of this Committee shall terminate following the first meeting of the City Council after the third Tuesday of April, 1994, unless earlier renewed by the City Council.

William D. Nielsen

Adopted,

May 11, 1993

## **FISCAL POLICY ADVISORY COMMITTEE**

**(The *Fiscal Policy Advisory Committee* was established by Council Resolution on April 14, 2009. The City Council established the *Fiscal Policy Committee* by Council Resolution on April 9, 2013.) The City Council re-established the Fiscal Policy Advisory Committee on May 14, 2013.**

### **MEMBERSHIP:**

Three members of the City Council.

### **APPOINTED BY:**

The members are appointed by the City Council at the annual Organizational Meeting.

### **TERM:**

One year.

### **MEETINGS:**

As determined by the members of the Committee.

### **DUTIES:**

The Fiscal Policy Advisory Committee is responsible and accountable to the City Council for the following program responsibilities:

- a. Presenting the City Council with a list of proposed projects related to the City budget and financial management policies, or other programs affecting budget revenues and/or expenditures, to be researched and analyzed by the committee for use by the City Council in preparing the City budget for the fiscal year.
- b. Undertaking such additional projects as may from time to time be authorized by or referred to the committee by the City Council.
- c. Presenting research findings and recommendations to the City Council at the first Council legislative session in June of that year unless extended by the Council.
- d. Recommending forums as needed for citizen information and education, providing for public input into the City budget process.
- e. Reviewing the annual city audit reports and recommendations.

**RESOLUTION**

**RESOLUTION CREATING THE FISCAL POLICY COMMITTEE AS A REGULAR COMMITTEE OF THE CITY COUNCIL CHARGED WITH ADVISING THE COUNCIL ON MATTERS OF FISCAL POLICY AND STRATEGIES AND FOR REVIEWING AND RECOMMENDING OPERATING BUDGET AND CAPITAL BUDGET PROGRAM CHANGES.**

**WHEREAS**, the City Council desires to take those actions that are reasonable and prudent to address the current fiscal issues facing local governments and the City of Eau Claire, and to provide for the public structures and systems essential for the Eau Claire community to flourish and be a desirable place where both people and businesses thrive, and

**WHEREAS**, the City Council desires to strengthen the capacity of City government to adapt and navigate through the current fiscal situation, and to advance economic development while providing for quality public services, necessary infrastructure investment and financial integrity.

**NOW, THEREFORE, BE IT RESOLVED** by the Eau Claire City Council as follows:

1. The Fiscal Policy Committee is created to consist of three (3) members of the City Council, selected by the City Council. The committee shall be responsible and accountable to the City Council for the following program responsibilities:
  - a. Assisting the City Council in matters of fiscal policy and strategies.
  - b. Advising the City Council on policy determination regarding matters of the City's long-term fiscal sustainability so as to ensure its continued ability to meet the needs of present and future residents for essential public structures and quality public services, while balancing city revenues and expenditures and maintaining financial integrity.
  - c. Reviewing annual City Audit Report and Recommendations, and recommending any policy changes needed to the City Council.
  - d. Conducting a regular review of City programs to seek ways to reduce costs, enhance services or maximize revenues and recommending any program changes to the City Council.
  - e. Conducting a series of public forums for citizen information and education and providing opportunities for public input into the City budget process.
  - f. Reviewing and evaluating ideas to improve the budget process and information contained in the Program of Services and related budget documents and recommending any changes to the City Council.
2. This resolution shall act to supersede and replace Resolution No. 2010-196, adopted May 11, 2010 and Resolution No. 2009-184 adopted April 14, 2009.
3. This resolution shall become effective on April 16, 2013.

**CITY/COUNTY BOARD OF HEALTH**  
**(Created by Ordinance 2.52.030)**

**MEMBERSHIP:**

The City/County Health Department shall be managed by the Board of Health consisting of 8 members:

- 1 City Council member.
- 1 County Board member appointed by the Chair of the County Board with the approval of the Board.
- 2 physicians practicing in the County selected from a list of 5 physicians furnished by the County Medical Society. One such physician shall be appointed by the Chair of the County Board with the approval of the Board and one by the City Manager (Advisory Committee on Appointments), with the approval of the City Council.
- 1 dentist practicing in the county appointed by the Chair of the County Board with approval of the Board from a list of 3 dentists submitted by the County Dental Society.
- 1 registered nurse with experience in community health practice. Such nurse shall be jointly appointed by the City and the County.
- 2 residents of the county with a broad social viewpoint and a serious interest in the health protection of the community. The Chair of the County Board, with the approval of the County Board, shall appoint one such member and the City Manager (Advisory Committee on Appointments), with the approval of the City Council, shall appoint the other.

**APPOINTED BY:**

The County Board and City Council.

**TERM:**

Five years.

**MEETINGS:**

The Board meets the 4th Wednesday of each month at 5:15 p.m.

**DUTIES:**

The Board of Health shall have authority to enforce such rules and regulations as may be adopted by the Department under the laws of the State. It may adopt such rules for its own guidance and for the government of the Health Department as may be deemed necessary to protect and improve public health, not inconsistent with State law or with rules and regulations of the Department. The Board of Health shall determine the salaries for the employees of the joint City/County Health Department. The Board of Health appoints the City/County Health Officer.

A board of health for a local health department shall assure that its local health department is a Level I, Level II or Level III local health department as specified in s. 251.05 (1).

Per statute, a local board of health shall assess public health needs and advocate for the provision of reasonable and necessary public health services, and develop policy and provide leadership that fosters local involvement and commitment, that emphasizes public health needs and that advocates for equitable distribution of public health resources and complementary private activities commensurate with public health needs. A local board of health shall assure that measures are taken to provide an environment in which individuals can be healthy.

## Chapter 2.52

### BOARD OF HEALTH

**2.52.030 Board of health.** A. The health department shall be managed by a board of health. The board of health shall have complete and exclusive control over the management and operations of the health department. The board of health shall consist of 8 members. The members shall reflect the diversity of the community. At least 3 of the members who are not elected officials or employees of the city or county shall have a demonstrated interest or competence in the field of public health or community health. The members shall be qualified and appointed as follows:

1. One member of the city council, appointed by the city council.
2. One member of the county board, appointed by the chairperson of the county board with the approval of the county board.

3. Two physicians practicing in the county. Such physicians shall be selected from a list provided by the Eau Claire County medical society, where practical and desirable. One physician shall be appointed by the chairperson of the county board with the approval of the board. The other physician shall be appointed by the city council.

4. One dentist practicing in the county. Such dentist shall be selected from a list provided by the Eau Claire County dental society, where practical and desirable. Such dentist shall be appointed by the chairperson of the county board with the approval of the board.

5. One registered nurse with experience in community health practice. Such nurse shall be jointly appointed by the city and the county.

6. Two members of ability and known to have a broad social viewpoint and a serious interest in the health protection of the community. One such member shall be appointed by the chairperson of the county board with the approval of the board. The other such member shall be appointed by the city council.

B. The term of office of the members shall be 5 years.\*

C. Public notice shall be given of the annual vacancies occurring on the board of health.

D. Members of the board of health shall be residents of the city or county.

E. If any member of the board of health no longer meets the qualifications for appointment as set forth in s. 2.52.030, the position held by such member shall be vacant.

F. Any vacancy occurring on the board of health shall be filled in the same manner as the original appointment.

G. The board of health shall elect one member as president and one member as vice-president. An accurate record shall be kept of all board of health meetings. (Ord. 5392 §1, 1994).

**BOARD OF HEATING EXAMINERS**  
**(Created by Ordinance, Chapter 16.28, in 1994)**

**MEMBERSHIP:**

This Committee consists of 7 members, 5 with voting rights and 2 in an advisory capacity. The 5 having voting rights are 2 licensed warm air heating contractors, 2 licensed hydronic contractors, and the City Fire Chief. The 2 advisory members are the City Heating Inspector and a representative from a local gas utility.

**APPOINTED BY:**

The City Council.

**TERM:**

Two years. (no tenure)

**MEETINGS:**

On call of the Chair.

**DUTIES:**

Develop and keep examinations used in licensing heating contractors current with modern technology. Also periodically review and make recommendations for updating the city heating code. All applications for licenses shall be approved by the Board, who shall first examine the applicant as to qualifications and competency. The Board will also hear appeals of those in disagreement with a provision of the code. Final action on licenses and changes to the code is the responsibility of the City Council.

## **BOARD OF HEATING EXAMINERS**

**16.28.050 Board of heating examiners--Created.** There is created a board of heating examiners and appeals, whose duties are hereinafter enumerated. (Ord. 5393, 1994).

**16.28.060 Board of heating examiners--Membership.** A. Such board shall consist of seven members, five with voting rights and two in an advisory capacity. The five members with voting rights shall be the following: Two shall be licensed warm air heat heating contractors; two shall be licensed wet heat heating contractors; and the city fire chief. Should the occasion arise when there are not two licensed wet heat heating contractors available for service on the board, then in such event one or, if need be, two other persons otherwise reasonably qualified shall be appointed.

B. The two advisory members shall be the city heating inspector, who shall be an ex officio member, and a representative of the local gas utility nominated by the utility and approved by the city council. The heating inspector shall serve as secretary to the board. (Ord. 5393, 1994).

**16.28.070 Board of heating examiners--Appointment.** The four appointed members of the board shall be appointed by the city manager, approved by the city council. (Ord. 5393, 1994).

**16.28.080 Board of heating examiners--Term of office.** Initially, two of the appointive members of the board shall be appointed for a term of one year, and two shall be for a term of two years. Terms shall expire on the last day of June. Incumbents shall, however, hold over until their successors have been duly appointed and qualified. (Ord. 5393, 1994).

**HOUSING ADVISORY BOARD**  
**(Created by Ordinance Adopting the**  
**Housing Maintenance and Occupancy Code on January 29, 1970)**

**MEMBERSHIP:**

This Board consists of five members. An alternate member may also be appointed. The Health Officer shall serve as Secretary to the Board.

**APPOINTED BY:**

The City Council.

**TERM:**

Three years.

**MEETINGS:**

Meetings shall be held as needed to hear appeals.

**DUTIES:**

The Board acts on appeals and applications. The Board may act upon application, upon written request from the City Council, from the Health Officer, or upon its own motion.

OFFICIAL PUBLICATION  
(Publ. Talc. January 29, 1970)  
ORD. # 3116

A N O R D I N A N C E

AN ORDINANCE REGULATING THE STANDARDS, MAINTENANCE AND OCCUPANCY  
OF HOUSING

THE CITY COUNCIL OF THE CITY OF EAU CLAIRE, WISCONSIN DO ORDEIN AS  
FOLLOWS:

SECTION I. That a document entitled "PROPOSED HOUSING CODE,  
City of Eau Claire, Eau Claire, Wisconsin, Introduced before  
the City Council January 14, 1970" is hereby adopted by  
reference and made a part hereof as fully as if herein set  
out verbatim.

SECTION II. A copy of said Housing Code is on file with the City  
Clerk and is open for public inspection.

SECTION III. All ordinances or parts of ordinances in conflict with  
this ordinance are hereby repealed.

SECTION IV. It is the intention of the City Council that this  
ordinance and every provision thereof, shall be considered  
separable; and the invalidity of any section, clause, provision,  
or part or portion of any section, clause or provision of this  
ordinance shall not affect the validity of any other portion of  
this ordinance.

SECTION V. This ordinance shall take effect and be in force from and  
after its passage and publication.

Passed, January 28, 1970

Approved, January 29, 1970

(SEAL) David C. Farr  
Vice President

(ATTESTED) G. D. Campbell  
City Clerk

**PROPOSED**

**WATER USE**

**City of Eau Claire**

**Eau Claire, Wisconsin**

**Introduced before City Council  
January 14, 1970**

1109 HOUSING ADVISORY BOARD

1109.01 A Housing Advisory Board shall be appointed by the City Manager subject to confirmation by the City Council. It shall consist of five members serving terms of three years. Among those first appointed one shall serve one year, two for two years and two for three years. The City Manager shall designate one of them as Chairman. The City Manager may appoint for a term of three years an alternate member of the Board in addition to the five members, who shall act, with full power, only when a member of the Board is unable to vote because of interest or when a member is absent. The Health Officer or a representative designated by him shall serve as secretary to the Board. A quorum shall consist of three members present in person at any duly convened meeting. In all cases not less than three members must vote for a proposal for it to carry. All meetings, transactions and records of action of the Housing Advisory Board shall be open to the public. The Board shall adopt its rules and regulations for the transaction of business. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. In addition to the powers otherwise granted in this ordinance, the Board shall have the power of interpretation where ambiguity or doubt may exist in any application of this ordinance.

The Board, in exercising the power and authority granted by this ordinance, shall act on specific appeals and applications only. In exercising its power of interpretation, the Board may act upon application, upon written request from the Common Council, from the Health Officer, or upon its own motion. Such action shall not, however, change or have the effect of changing any rule, regulation, provision or restriction of this ordinance, but shall affect only its application to specific cases before the Board.

**HOUSING AUTHORITY**  
**(Authorized by Wisconsin Statutes 66.1335;**  
**Created by Council Resolution, March 14, 1973)**

**MEMBERSHIP:**

The Housing Authority consists of five persons. No commissioner may be connected in any official capacity with any political party, nor shall more than two be officers of the City.

**APPOINTED BY:**

The City Council.

**TERM:**

Five years.

**MEETINGS:**

Meetings are held the 4th Monday of each month at 7:45 a.m.

**DUTIES:**

The commissioners establish goals and policies for the Housing Authority concerning the acquisition, operation and management of public housing projects in Eau Claire and oversee the implementation of state statutes pertaining to housing authorities.

## WISCONSIN STATUTES

**66.1335 Housing and community development authorities.** (1) **AUTHORIZATION.** A city may, by a two-thirds vote of the members of the city council present at the meeting, adopt an ordinance or resolution creating a housing and community development authority which shall be known as the "Community Development Authority" of the city. It is a separate body politic for the purpose of carrying out blight elimination, slum clearance, urban renewal programs and projects and housing projects. The ordinance or resolution creating a housing and community development authority may also authorize the authority to act as the agent of the city in planning and carrying out community development programs and activities approved by the mayor and common council under the federal housing and community development act of 1974 and as agent to perform all acts, except the development of the general plan of the city, which may be otherwise performed by the planning commission under s. 66.1105, 66.1301 to 66.1329, 66.1331 or 66.1337. A certified copy of the ordinance or resolution shall be transmitted to the mayor. The ordinance or resolution shall also do all of the following:

(a) Provide that any redevelopment authority created under s. 66.1333 operating in the city and any housing authority created under s. 66.1201 operating in the city, shall terminate its operation as provided in sub. (5).

(b) Declare in substance that a need for blight elimination, slum clearance, urban renewal and community development programs and projects and housing projects exists in the city.

(2) **APPOINTMENT OF MEMBERS.** Upon receipt of a certified copy of the ordinance or resolution, the mayor shall, with the confirmation of the council, appoint 7 resident persons having sufficient ability and experience in the fields of urban renewal, community development and housing, as commissioners of the community development authority.

(a) Two of the commissioners shall be members of the council and shall serve during their term of office as council members.

(b) The first appointments of the 5 noncouncil members shall be for the following terms: 2 for one year and one each for terms of 2, 3 and 4 years. Thereafter the terms of noncouncil members shall be 4 years and until their successors are appointed and qualified.

(c) Vacancies shall be filled for the unexpired term as provided in this subsection.

(d) Commissioners shall be reimbursed their actual and necessary expenses including local travel expenses incurred in the discharge of their duties, and may, in the discretion of the city council, receive other compensation.

RESOLUTION

NO. 6476

Resolution offered by Councilman Crinion

BE IT RESOLVED by the City Council of the City of Eau Claire:  
That the City Council of the City of Eau Claire, Wisconsin, hereby  
determines, finds and declares, in pursuance of sections 66.40 to  
66.404 of the Wisconsin Statutes, the "Housing Authorities Law" of  
the State of Wisconsin:

1. Insanitary and unsafe inhabited dwelling accommodations  
exist in the City of Eau Claire, Wisconsin; and

2. There is a shortage of safe and sanitary dwelling  
accommodations in the City of Eau Claire, Wisconsin,  
available to persons of low income at rentals they can  
afford; and

3. There is need for a housing authority to function  
in the City of Eau Claire, Wisconsin; and

4. The City Manager of the City of Eau Claire, Wisconsin,  
be promptly notified by the City Clerk of the adoption of  
this resolution by furnishing him with a certified copy  
thereof; and

5. The City Manager be and he is hereby directed to  
file in the office of City Clerk of the City of Eau Claire,  
Wisconsin, the necessary certificate evidencing the appoint-  
ment of the commissioners and designation of the first  
chairman of the housing authority, pursuant to Wisconsin  
Statutes Section 66.40 (5) of the "Housing Authorities Law"  
of the State of Wisconsin.

6. This resolution shall take effect and be in force  
immediately upon its adoption.

H. D. Crinion

Adopted,

March 14, 1973

**JOINT COMMISSION ON SHARED SERVICES INITIATIVES**  
**(Created by Council Resolution, March 28, 2006 and County Resolution, March 7, 2006)**  
**(Council Resolution authorizing membership of the School District to the Commission,**  
**May 26, 2009)**

**MEMBERSHIP:**

The Commission consists of nine (9) members consisting of three (3) members from the governing body of each government (County Board, City Council, and School Board), one of whom shall be the respective presiding officer or designee of each governing body. The Joint Commission on Shared Services Shared Services Initiatives is an advisory committee to the City Council, County Board, and School Board.

**APPOINTED BY:**

The City Council Members are appointed at the Annual Organizational Meeting.

**TERM:**

One year.

**MEETINGS:**

The Commission meets every other month, usually on the fourth Thursday at 7:30 a.m.

**DUTIES:**

The Joint Commission on Shared Services Initiatives has been created to provide visionary leadership in delivery of collaborative public services by identifying opportunities and challenges, engaging the multiple constituencies, and developing strategies to support collaboration in areas of common interest among the governmental bodies. The Commission makes recommendations to the City Council, County Board, and School Board for approval of concepts and strategies for implementation.

**RESOLUTION**

**RESOLUTION REGARDING IMPLEMENTATION OF THE RECOMMENDATIONS OF THE CITY COUNCIL SHARED SERVICES COMMITTEE FINAL REPORT.**

**WHEREAS**, on June 28, 2005 the City Council of the City of Eau Claire created a City Council Shared Services Committee for the purposes of studying the public services provided by City of Eau Claire, assessing opportunities for shared services among area local governments and organizations; and

**WHEREAS**, on March 27, 2006, the Shared Services Committee Final Report, dated March 10, 2006, and a copy of which is on file in the Office of the City Clerk, was presented to the City Council; and

**WHEREAS**, the recommendations of the Shared Services Committee Final Report provide for the implementation of a long-term shared services strategy for the City of Eau Claire that will forge more effective intergovernmental partnerships and move the City of Eau Claire toward finding a new and sustainable balance of public services and public costs while retaining quality services; and

**WHEREAS**, the City Council Shared Services Committee and the Eau Claire County Select Committee on Restructuring County Services have met separately and jointly to examine how services in the respective governments could be provided more effectively through shared services partnerships; and

**WHEREAS**, the Eau Claire County Board of Supervisors adopted Enrolled Resolution R149-113 on March 7, 2006 to establish a Joint Commission on Shared Services Initiatives to examine potential City/County shared services opportunities;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Eau Claire hereby receives the City Council Shared Services Committee Final Report, dated March 10, 2006.

**BE IT FURTHER RESOLVED** that the City Council hereby adopts the following actions to implement the recommendations of the Final Report:

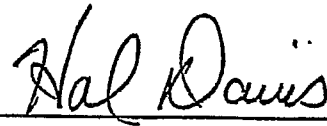
1. The City Council hereby establishes an organizational policy of seeking to expand intergovernmental shared services where warranted and feasible to do so;
2. The City Council hereby establishes an organizational policy of seeking to build long-term and mutually beneficial working relationships with other area government organizations and jurisdictions;
3. The City Council Shared Services Committee shall continue through March 31, 2008, for the purpose of maintaining a City Council policy focus on building intergovernmental partnerships and to address the tasks identified for the Committee in the Final Report, including:
  - Serving as the City of Eau Claire City Council members of the Joint Commission on Shared Services Initiatives;

- Pursuing discussions regarding shared services with representatives of the City of Altoona, the Eau Claire Area School District, adjacent towns, and other municipal and county jurisdictions;
  - Assessing key obstacles to City shared services initiatives and identifying potential responsive strategies;
  - Reviewing and refining project feasibility evaluation criteria;
4. The City Council shall appoint three members of the City Council at the City Council Organizational Meeting on April 18, 2006 to serve on the Shared Services Committee, which shall provide regular progress reports to the City Council;
  5. The City Council hereby establishes in conjunction with Eau Claire County a Joint Commission on Shared Services Initiatives for the purpose of examining potential City/County shared services opportunities and making recommendations to the County Board and City Council for approval of concepts and strategies for implementation, and as further described in the documents "Appendix G, Framework for Joint Commission on Shared Services Initiatives," and "Appendix H, Joint Commission on Shared Services Initiatives Process," which are attached hereto and made a part hereof.

**BE IT FURTHER RESOLVED** that the Joint Commission shall provide an initial report regarding implementation of shared services strategies to the City and County no later than March 31, 2007, and that the Commission shall terminate March 31, 2008, unless otherwise authorized by the City Council and County Board.

Adopted,  
March 28, 2006

\*\*\*\*\*  
Motion offered by:



Hal Davis

Seconded by:

  
Raymond Hughes

\*\*\*\*\*

## **Appendix G**

### **Framework for Joint Commission on Shared Services Initiatives (Eau Claire County/City of Eau Claire, February 23, 2006)**

#### **□ Purpose Statement**

*The purpose of the Joint Commission is to identify and examine potential City-County shared services opportunities and to make recommendations to the Eau Claire City Council and the Eau Claire County Board of Supervisors for approval of concepts and strategies for implementing those shared services that increase efficiency, improve quality, or reduce costs in the delivery of public services, without sacrificing public accountability.*

#### **□ Joint Commission Structure**

- Recommended organizational process illustrated in attached diagram dated 2-23-06
- Joint Commission members are drawn from the County Board Select Committee and City Council Shared Services Committees respectively
- Joint Commission selects City and County representatives to serve as co-chairs
- Joint Commission asks County Administrator and City Manager for joint recommendations regarding the feasibility and implementation of potential shared service initiatives
- Joint Commission would generally meet on a monthly basis
- County Administrator and City Manager exercise administrative discretion in how best to bring forward recommendations on feasibility and implementation
- County Administrator and City Manager coordinate and direct allocation of staff resources
- County Administrator and City Manager work jointly to provide administrative and staff support

#### **□ Joint Commission Responsibilities**

- Monitor progress and ensure accountability for the shared services initiatives
- Provide political will/support for shared services initiatives
- Provide reports to respective elected bodies
- Selecting shared services initiatives for consideration
- Assess potential for future shared services initiatives
- Evaluate overall effectiveness of shared services initiatives as a pilot effort
- Refine and approve evaluation criteria for project feasibility and implementation
- Review joint organizational strategies and policies for implementing shared services initiatives
- Address key political and legal obstacles to implementing initiatives
- Provide an opportunity for public discussion of shared service issues and initiatives

□ **Time Lines**

- **March 2006:** Presentation of County and City committee reports
- **March 2006** Action by County Board and City Council on committee recommendations
- **April/May 2006:** County Board and City Council approval of Joint Commission appointments
- **May/June 2006:** Initial meeting of Joint Commission
- **October 2006:** Interim Progress Report by Joint Commission
- **March 2007:** Overall Evaluation Report to County Board and City Council  
(Specific project implementation recommendations will come forward as ready)

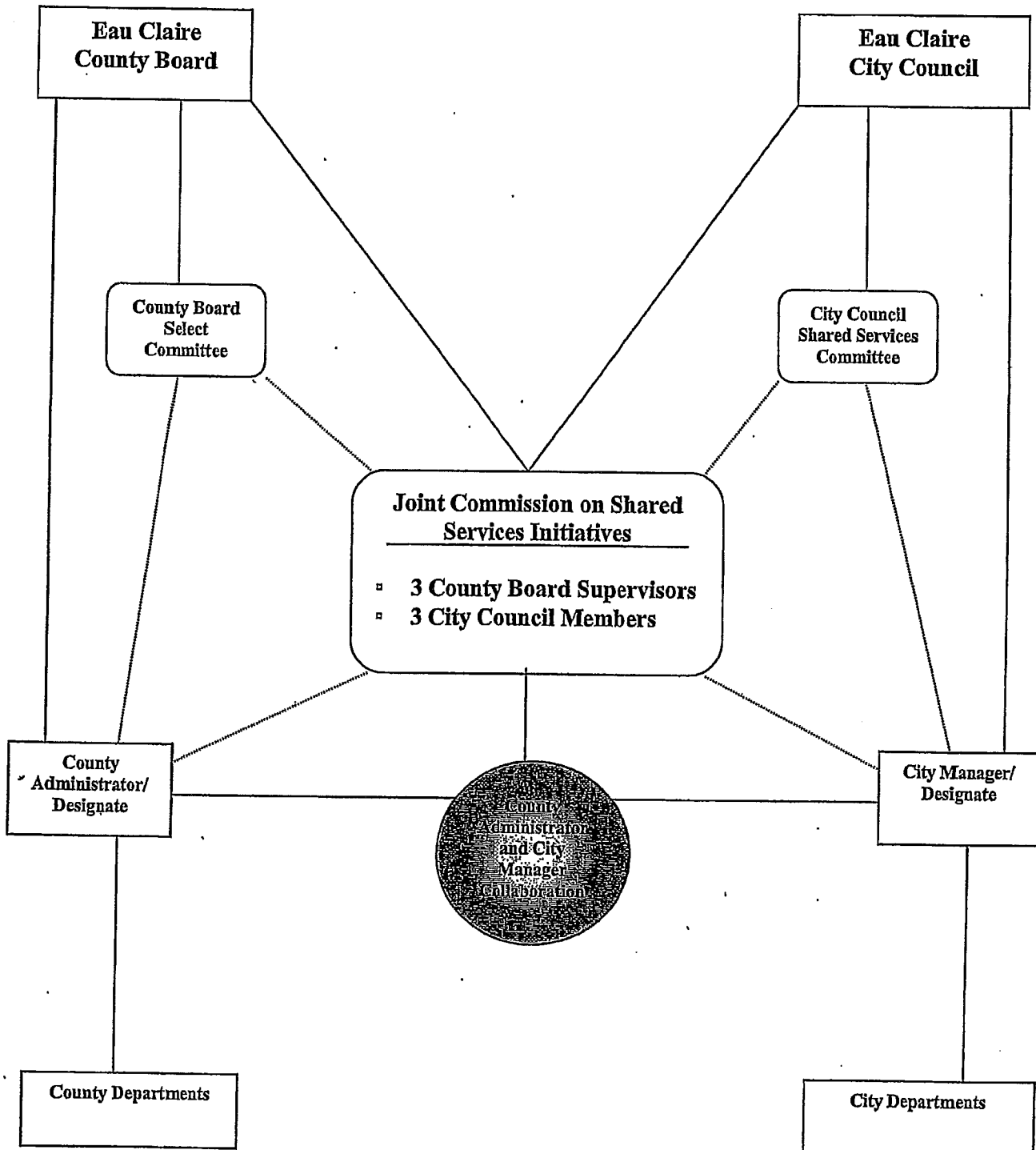
□ **Decision Criteria for Selecting Joint Commission Initiatives**

- What is the likely impact of the initiative on building more effective future work relationships between the City and County?
- What is the likelihood that the initiative could be successfully implemented?
- What is the potential of the proposed initiative having a significant positive impact on expanding shared service partnerships in other service areas?
- To what extent is the primary focus of the proposed initiative on direct City/County organizational relationships?
- To what extent will the proposed initiative need a significant degree of visible political support from elected officials in order to be successful?
- To what extent will the key staff involved in a proposed initiative also be significantly involved in other shared service initiatives?
- What is the potential for the proposed initiative to have a significant impact on the effectiveness, quality, and costs of service delivery?

□ **Initial List of Potential Shared Services Initiatives for Consideration**

- **What should the City and County do to implement new or expanded shared services:**
  1. Between the Sheriff's Office and Eau Claire Police Department?
  2. For building code inspections with Eau Claire County?
  3. For the provision of E-government and government web site services?
  4. For human resource administrative procedures, training, and risk management?
  5. For elections?
  6. For the provision of City and County park services?
  7. For land management records?
  8. Regarding highway maintenance and jurisdictional transfers?
  9. Regarding the provision of planning and development services?
  10. For the provision of employee health insurance and benefits?

(February 23, 2006)



# **RATING WORKSHEET FOR POTENTIAL PROJECTS**

Questions for Rating	Sheriff / Police	Building Inspections	E-Gov / Website	Human Resources	Elections	Park Services	Land Management Records	Highway Maintenance Jurisdictional Transfers	Planning & Development Services	Employee Health Insurance
1. What is the likely impact of the initiative on building more effective future work relationships between the City and County?										
2. What is the likelihood that the initiative could be successfully implemented?										
3. What is the potential of the proposed initiative having a significant positive impact on expanding shared service partnerships in other service areas?										
4. To what degree is the primary focus of the proposed initiative on direct City/County organizational relationships?										
5. To what degree will the proposed initiative need a significant degree of visible political support from elected officials in order to be successful?										
6. To what degree will the key staff involved in a proposed initiative also be significantly involved in other shared service initiatives?										
7. What is the potential for the proposed initiative to have a significant impact on the effectiveness, quality, and costs of service delivery?										

- 1 = High Priority  
 2 = Moderate Priority  
 3 = Low Priority

**-RECEIVING REPORT OF THE SELECT COMMITTEE ON RESTRUCTURING COUNTY GOVERNMENT; ADOPTING RECOMMENDATIONS OF THE SELECT COMMITTEE ON RESTRUCTURING COUNTY GOVERNMENT-**

WHEREAS, the Select Committee on Restructuring County Government was reactivated by County Board Resolution No. 05-06/100 on October 18, 2005 to continue to review areas for functional consolidation within the County's operations and actively seek opportunities for funding shared services with other governmental entities; and,

WHEREAS, the Committee's report is attached to this resolution; and,

WHEREAS, in order for the recommendations of the Committee to be implemented, the County Board must receive the report and adopt the recommendations.

NOW, THEREFORE, BE IT RESOLVED that the Eau Claire County Board of Supervisors hereby receives the Report of the Select Committee on Restructuring County Government.

BE IT FURTHER RESOLVED, that the Eau Claire County Board of Supervisors hereby adopts the following Select Committee recommendations:

1. The county code be amended to provide that the emergency management function report to the Committee on Judiciary and Law Enforcement.
2. County department heads shall designate one staff member to seek grant opportunities in order to enhance revenue, including use of eCivis Grants Locator and report to oversight committees by May 1, 2006.
3. The County Board designates use of a standardized framework for description of shared services as shown in Appendix #1 of the Select Committee Report.
4. The Select Committee is reactivated through April 2008 following the April 2006 reorganization of the County Board to continue to review areas for functional consolidation and shared services within the County's operations and to continue to actively pursue opportunities for shared services with other local jurisdictions with reports to the County Board at six-month intervals.
5. A Joint Commission on Shared Services Initiatives is created to identify and examine potential city/county shared service opportunities and make recommendations to the County Board and City Council for approval of concepts and strategies for implementation by no later than March 2007 (as described in the attached report and appendices). The Chair of the County Board shall appoint County Board members of the Joint Commission.

ADOPTED: March 7, 2006

Janet K. Loomis  
County Clerk

**RESOLUTION**

**AUTHORIZING MEMBERSHIP OF THE EAU CLAIRE AREA SCHOOL DISTRICT  
ON THE JOINT COMMISSION ON SHARED SERVICES INITIATIVES AND  
REVISING AND APPROVING THE GOVERNANCE STRUCTURE THEREOF.**

**WHEREAS**, by action of the Eau Claire County Board of Supervisors on March 2, 2006 and by the Eau Claire City Council on March 28, 2006, a *Joint Commission on Shared Services Initiatives* (hereinafter, the "Commission") was established for the purpose of examining potential City/County shared services opportunities and making recommendations to the County Board and City Council regarding strategies for implementing shared services that increase efficiency, improve quality, or reduce costs in the delivery of public services, without sacrificing public accountability; and

**WHEREAS**, in March 2008 the Eau Claire City Council and the Eau Claire County Board reaffirmed a joint public policy of seeking to expand intergovernmental shared services where warranted and feasible, and furthermore extended the establishment of the Commission as a permanent advisory body to the County Board and City Council; and

**WHEREAS**, since September of 2008, Eau Claire Area School District representatives have attended meetings of the Commission and have joined in the dialogue examining potential shared service opportunities that may include the City, the County, and the Eau Claire Area School District; and

**WHEREAS**, the Eau Claire Area School District Board of Education, on March 16, 2009, adopted a resolution authorizing the Eau Claire Area School District to participate in the Commission, and further authorized members to serve thereon; and

**WHEREAS**, the Commission believes that expanding the membership of the Commission by adding the Eau Claire Area School District will provide greater potential for exploration of the policy issues related to expanding intergovernmental shared services in specific operational areas that increase efficiency, improve quality, or reduce costs in the delivery of public services in the greater Eau Claire community while maintaining accountability and further supporting the public policy emphasis on the concept of shared services; and

**WHEREAS**, the Commission, with the concurrence of the Eau Claire Area School District representatives, unanimously recommends the ratification of the attached agreement by the City Council, County Board, and School Board to implement the foregoing;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Eau Claire as follows:

1. That the Eau Claire Area School District is hereby added as an additional member of the *Joint Commission on Shared Services Initiatives* which shall hereafter consist of nine (9) members: three City Council members, three County Board members and three School Board members, to be appointed as provided hereinafter.

2. That the *Memorandum of Understanding for the Governance of the Joint Commission on Shared Services Initiatives*, a copy of which is attached hereto and made a part hereof, is hereby approved, and that the City Council President be, and hereby is, authorized to execute said agreement on behalf of the City of Eau Claire.

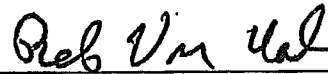
3. That the Eau Claire City Council Shared Services Committee established by Eau Claire City Council Resolution 2005-319, adopted June 28, 2005, is hereby abolished.

Adopted,

May 26, 2009

\*\*\*\*\*

Motion to adopt the resolution.



Bob Von Haden

Seconded by:



Jackie Pavelski

\*\*\*\*\*

**Intergovernmental Agreement for Governance of the  
JOINT COMMISSION ON SHARED SERVICES INITIATIVES  
By and Among the City Of Eau Claire, Eau Claire County, and the Eau  
Claire Area School District**

**ARTICLE I. Purpose**

- A. The Joint Commission on Shared Services Initiatives shall serve as an ongoing advisory body to the County Board, City Council and School Board.
- B. The purpose of the Commission is to examine and identify opportunities for potential shared services among the governments, and to recommend to the respective governing bodies the approval of concepts and strategies for implementing those shared services that increase efficiency, improve quality, or reduce costs in the delivery of public services, without sacrificing public accountability.

**ARTICLE II. Definitions**

In this agreement--

- A. "Commission" means the Joint Commission on Shared Services Initiatives.
- B. "Governing bodies" means the Eau Claire City Council, the Eau Claire County Board of Supervisors and the Eau Claire Area School District Board of School Commissioners.
- C. "Governments" means the City of Eau Claire, Eau Claire County, and the Eau Claire Area School District.

**ARTICLE III. Commission Membership**

- A. The Commission shall consist of up to nine (9) members consisting of three (3) City Council members, three (3) County Board members, and three (3) School Board members.
- B. Commission members shall be appointed, removed or reappointed at the pleasure of the governing bodies in accordance with the rules thereof.
- C. Vacancies shall be filled by the appointing governing body for the remainder of the unexpired term.
- D. No alternate representatives shall be permitted on the Commission.

**ARTICLE IV. Officers and Committees**

- A. Annually in May following appointment of members, the Commission shall select from its membership a chairperson and a vice-chairperson to serve for a term of one year or until a successor is elected. Election shall require the affirmative vote of a majority of the members appointed under Article III (A). The chairperson and vice-chairperson shall not be from the same governing body.
- B. The chairperson shall preside over all meetings of the Commission, approve all meeting agendas, appoint any subcommittees created by the Commission, and carry out all responsibilities of and directives by the Commission. The

chairperson shall appoint a Commission clerk, as provided upon staff recommendation.

- C. The vice-chairperson shall perform the duties of the chairperson in the absence or disability of the chairperson.
- D. The Commission may from time to time establish committees, designating their duties and membership. All committees shall report and be accountable to the Commission.

#### **ARTICLE V. Commission Duties**

- A. Monitor progress and ensure accountability for the shared services initiatives.
- B. Provide political will/support for shared services initiatives.
- C. Provide reports to respective elected bodies.
- D. Recommend shared services initiatives for consideration.
- E. Assess potential for future shared services initiatives.
- F. Evaluate overall effectiveness of shared services initiatives.
- G. Refine and approve evaluation criteria for project feasibility and implementation.
- H. Review joint organizational strategies and policies for implementing shared services initiatives.
- I. Address key political and legal obstacles to implementing initiatives.
- J. Provide an opportunity for public discussion of shared service issues and initiatives.
- K. Request joint recommendations from staff in Article VIII (A) regarding the feasibility of implementation of potential shared services initiatives.

#### **ARTICLE VI. Criteria for Shared Services Project Initiatives**

The following criteria shall be used in selecting initiatives for the Commission to review:

- A. The likely impact of the initiative on building more effective future work relationships between the City, County and/or School District.
- B. The likelihood that the initiative could be successfully implemented.
- C. The potential of the proposed initiative having a significant positive impact on expanding shared service partnerships in other service areas.
- D. The extent to which the primary focus of the proposed initiative has on direct City/County/School District organizational relationships.
- E. The extent to which the proposed initiative would need a significant degree of visible political support from elected officials in order to be successful.
- F. The extent to which the key staff involved in a proposed initiative would also be significantly involved in other shared service initiatives.
- G. The potential for the proposed initiative to have a significant impact on the effectiveness, quality, and costs of service delivery.

#### **ARTICLE VII. Procedural Rules**

- A. *Roberts Rules of Order, Newly Revised*, shall govern the meetings of the Commission, unless otherwise provided herein.
- B. A quorum shall consist of a majority of the duly appointed members of the Commission as provided under Article III (A).

- C. All actions of the Commission shall be upon motion duly adopted by a majority of the members appointed under Article III (A).
- D. Regular meetings shall be held at the date and time set by the Commission. Special meetings may be held at the call of the chairperson. The chairperson shall cancel any meeting if a quorum cannot be present.

**ARTICLE VIII. Administration**

- A. The County Administrator, City Manager and Superintendent of Schools shall serve as staff to the Commission. They shall jointly:
  - (1) Exercise administrative discretion in how to best present recommendations on feasibility and implementation of shared services initiatives.
  - (2) Coordinate and direct allocation of staff services.
- B. The County Administrator and City Manager shall provide all clerical and public record services for the Commission.
- C. Commission meetings shall alternate between the City Hall and the County Courthouse, unless otherwise directed by the Commission.
- D. This agreement shall become effective on June 1, 2009, following approval of the governing bodies of the parties hereto as evidenced by the signatures of the respective duly authorized officers thereof.

**CITY OF EAU CLAIRE**

By: \_\_\_\_\_

*Kerry Kincaid*  
Kerry Kincaid, President  
Eau Claire City Council

Date: \_\_\_\_\_

*July 9, 2009*

**COUNTY OF EAU CLAIRE**

By: \_\_\_\_\_

*Gregg Moore*  
Gregg Moore, Chair  
Eau Claire County Board of Supervisors

Date: \_\_\_\_\_

*July 9, 2009*

**EAU CLAIRE AREA SCHOOL DISTRICT**

By: \_\_\_\_\_

*Carol Craig*  
Carol Craig, President  
Board of School Commissioners

Date: \_\_\_\_\_

*July 9, 2009*

**Intergovernmental Agreement for Governance of the  
JOINT COMMISSION ON SHARED SERVICES INITIATIVES  
By and Among the  
City Of Eau Claire-Eau Claire County-Eau Claire Area School District**

**ARTICLE I. Purpose**

- A. The Joint Commission on Shared Services Initiatives shall serve as an ongoing advisory body to the County Board, City Council and School Board.
- B. The purpose of the Commission is to provide visionary leadership in delivery of collaborative public services. This will be accomplished by identifying opportunities and challenges, engaging the multiple constituencies, and developing strategies to support collaboration in areas of common interest among the governing bodies.

**ARTICLE II. Definitions**

In this agreement--

- A. "Commission" means the Joint Commission on Shared Services Initiatives.
- B. "Designee" means a member of a governing body appointed by the presiding officer thereof for a specified term.
- C. "Governing body" means the Eau Claire City Council, the Eau Claire County Board of Supervisors or the Eau Claire Area School District Board of School Commissioners.
- D. "Governments" means the City of Eau Claire, Eau Claire County, and the Eau Claire Area School District.

**ARTICLE III. Commission Membership**

- A. The Commission shall consist of nine (9) members consisting of three (3) members from the governing body of each government, one of whom shall be the respective presiding officer or designee of each governing body.
- B. Except for the presiding officers in (A) –
  - 1) Commission members shall be appointed, removed or reappointed at the pleasure of the governing bodies in accordance with the rules thereof.
  - 2) Vacancies shall be filled by the appointing governing body for the remainder of the unexpired term.
- C. No alternate representatives shall be permitted on the Commission, except as provided in (A).

**ARTICLE IV. Officers and Committees**

- A. Annually in May following appointment of members, the Commission shall select from its membership a chairperson and a vice-chairperson to serve for a term of one year or until a successor is elected. Election shall require the affirmative vote of a majority of the members appointed under Article III (A). The chairperson and vice-chairperson shall not be from the same governing body.

- B. The chairperson shall preside over all meetings of the Commission, approve all meeting agendas, appoint any subcommittees created by the Commission, and carry out all responsibilities of and directives by the Commission. The chairperson shall appoint a Commission clerk, as provided upon staff recommendation.
- C. The vice-chairperson shall perform the duties of the chairperson in the absence or disability of the chairperson.
- D. The Commission may from time to time establish committees, designating their duties and membership. All committees shall report and be accountable to the Commission.

#### **ARTICLE V. Commission Duties**

- A. Monitor progress and ensure accountability for the shared services initiatives.
- B. Provide political will/support for shared services initiatives.
- C. Provide reports to respective elected bodies.
- D. Recommend shared services initiatives for consideration.
- E. Assess potential for future shared services initiatives.
- F. Evaluate overall effectiveness of shared services initiatives.
- G. Refine and approve evaluation criteria for project feasibility and implementation.
- H. Review joint organizational strategies and policies for implementing shared services initiatives.
- I. Address key political and legal obstacles to implementing initiatives.
- J. Provide an opportunity for public discussion of shared service issues and initiatives.
- K. Follow the guidelines of the Service Optimization and Process Review Report of August 2011.
- L. Request joint recommendations from staff in Article VIII (A) regarding the feasibility of implementation of potential shared services initiatives.

#### **ARTICLE VI. Criteria for Shared Services Project Initiatives**

The following criteria shall be used in selecting initiatives for the Commission to review:

- A. The likely impact of the initiative on building more effective future work relationships between the City, County and/or School District.
- B. The likelihood that the initiative could be successfully implemented.
- C. The potential of the proposed initiative having a significant positive impact on expanding shared service partnerships in other service areas.
- D. The extent to which the primary focus of the proposed initiative has on direct City/County/School District organizational relationships.
- E. The extent to which the proposed initiative would need a significant degree of visible political support from elected officials in order to be successful.
- F. The extent to which the key staff involved in a proposed initiative would also be significantly involved in other shared service initiatives.
- G. The potential for the proposed initiative to have a significant impact on the effectiveness, quality, and costs of service delivery.

**ARTICLE VII. Procedural Rules**

- A. *Roberts Rules of Order, Newly Revised*, shall govern the meetings of the Commission, unless otherwise provided herein.
- B. A quorum shall consist of a majority of the duly appointed members of the Commission as provided under Article III (A).
- C. All actions of the Commission shall be upon motion duly adopted by a majority of the members appointed under Article III (A).
- D. Regular meetings shall be held at the date and time set by the Commission. Special meetings may be held at the call of the chairperson. The chairperson shall cancel any meeting if a quorum cannot be present.

**ARTICLE VIII. Administration**

- A. The County Administrator, City Manager and Superintendent of Schools shall serve as staff to the Commission. They shall jointly:
  - 1) Exercise administrative discretion in how to best present recommendations on feasibility and implementation of shared services initiatives.
  - 2) Coordinate and direct allocation of staff services.
- B. The County Administrator and City Manager shall provide all clerical and public record services for the Commission.
- C. Commission meetings shall alternate between the City Hall and the County Courthouse, unless otherwise directed by the Commission.
- D. This agreement shall become effective on the first day of the month following ratification by all of the governing bodies of the governments party hereto as evidenced by the signatures of the respective duly authorized officers thereof.

**CITY OF EAU CLAIRE**

By:

Kerry Kincaid  
Kerry Kincaid, President  
Eau Claire City Council

Date:

April 10, 2012

**COUNTY OF EAU CLAIRE**

By:

Gregg Moore  
Gregg Moore, Chair  
Eau Claire County Board of Supervisors

Date:

April 12, 2012

**EAU CLAIRE AREA SCHOOL DISTRICT**

By: \_\_\_\_\_

Carol Craig, President  
Board of School Commissioners

Date: \_\_\_\_\_

April 11, 2012

Adopted: July 9, 2009

Amended: May 1, 2012

**LANDMARKS COMMISSION**  
**(Created in 1982 by City Ordinance, Chapter 2.65.030)**

**MEMBERSHIP:**

The Landmarks Commission consists of 7 members:

- 1 registered architect
- 1 historian qualified in the field of historic preservation
- 1 licensed real estate broker or salesperson
- 1 City Council member
- 3 citizen members

**APPOINTED BY:**

The City Council.

**TERM:**

Three years.

**MEETINGS:**

The Landmarks Commission meets the first Monday of each month at 4:30 p.m.

**DUTIES:**

The Commission shall have the power, subject to provisions of section 2.65.050 of the City ordinances to designate landmarks, landmark sites and historic districts within the city limits. They shall also regulate construction, reconstruction and exterior alteration to landmarks, landmark sites, and structures within historic districts.

Decisions made by the Landmarks Commission may be appealed to the City Council.

## Chapter 2.65

### LANDMARKS

**2.65.030 Landmarks commission composition and terms.** A Landmarks Commission is hereby created, consisting of 7 members including a registered architect; a historian qualified in the field of historic preservation; a licensed real estate broker or salesperson; a City Council member and three citizen members. Each member shall have, to the highest extent practicable, a known interest in landmarks preservation. The Commissioners shall be recommended by the advisory committee on appointments and confirmed by the city council. Of the initial members so appointed, two shall serve a term of one year, two shall serve a term of two years, and three shall serve a term of three years. Thereafter, the term for each member shall be three years. (Charter Ord. 6935, 2010; Ord. 4293, 1982).

**LIBRARY BOARD**  
**(Wisconsin Statutes; Chapter 43**  
**43.19 Federated [7]; 43.21 Consolidated; 43.54 Municipal Library Board;**  
**Eau Claire Library Board created by City Council Resolution in 1875)**

**MEMBERSHIP:**

The Library Board consists of 10 members:

- 6 City appointed
- 2 County representatives (appointed by City Council from a list of three names submitted by the County Board Chairperson)
- 1 Council representative
- Superintendent of Schools or Superintendent's designee

**APPOINTED BY:**

The City Council, County Board and School Superintendent.

**TERM:**

Three years.

**MEETINGS:**

Meetings are held the 3rd Thursday of each month at 5 p.m.

**DUTIES:**

The Library Board shall have exclusive control of the expenditure of all moneys collected, donated or appropriated for the library fund, and of the purchase of site and the erection of the library building whenever authorized. The Library Board also shall have exclusive charge, control and custody of all lands, buildings, money or other property devised, bequeathed given or granted to, or otherwise acquired or leased by, the City for library purposes. The Board supervises the administration of the library and appoints the librarian. After the conclusion of the fiscal year of the City, the Library Board makes a report to the State Division for Library Services and the City Council.

## CHAPTER 43

**43.19 Federated public library systems.** (1) (a) In a federated public library system whose territory lies within a single county, the system board shall consist of 7 members nominated by the county executive, or by the county board chairperson in a county without a county executive, and approved by the county board. At least 3 members of the system board, at the time of their appointment, shall be active voting members of library boards governing public libraries of participating municipalities, and at least one of these shall be a member of the library board governing the resource library. At least one but not more than 2 members of the county board shall be members of the system board at any one time.

(b) 1. Except as provided in subd. 2., in a federated public library system whose territory lies within 2 or more counties, the system board shall consist of at least 15 and not more than 20 members nominated by the county executive in each county in the system, or by the county board chairperson in a county without a county executive, and approved by each county board in the system. Appointments shall be in proportion to population as nearly as practical, but, except as provided in subd. 2., each county shall be represented by at least one member on the system board. Each county board may appoint one county board member to the system board. The public library board governing the designated resource library shall have at least one member on the system board. The remaining system board members shall include such representatives of the library boards governing public libraries of participating municipalities and counties and public members appointed from the counties at large as the county board determines.

2. A system board appointed under subd. 1. may consist of more than 20 members if the county boards, acting jointly, determine that each county in the system shall be represented by at least 2 members on the system board.

**43.21 Consolidated public library systems.** (1) In a consolidated public library system, the system board shall consist of 7 or 9 members appointed by the county board. In the initial appointment of a system board, at least 3 members of the system board, at the time of their appointment, shall be active voting members of library boards governing public libraries consolidated into the system. At least one but not more than 2 members of the county board shall be members of the system board at any one time.

**43.54 Municipal library board composition.** (1) (a) Each public library established under s. 43.52 shall be administered by a library board composed in each city of the 2nd or 3rd class or school district of 9 members, in each city of the 4th class of 7 members and in each village, town, tribal government or tribal association of 5 members. Two additional members may be appointed to a library board for a village, town, tribal government or tribal association so that the board has 7 members. Members shall be residents of the municipality, except that not more than 2 members may be residents of other municipalities. Members shall be appointed by the mayor, village president, town chairperson, tribal chairperson or school board chairperson, respectively, with the approval of the municipal governing body. Up to 2 additional members may be appointed under s. 43.60 (3).

(am) Each public library established in a 1st class city shall be administered by a library board consisting of the president of the board of school directors or his or her designee, the superintendent of schools or his or her designee, a member of the county board of supervisors who resides in the county but outside the city, 3 alderpersons and 6 public members. The county board member shall be appointed by the county executive or county administrator and confirmed by the county board for a 4-year term commencing on May 1. The 3 alderpersons shall be appointed by the mayor on the 3rd Tuesday in April from among those alderpersons serving 4-year terms and shall serve on the library board during their aldermanic terms. The 6 public members shall be residents of the city. Five of the public members shall be appointed by the mayor on the 3rd Tuesday in April to staggered 4-year terms. One of the public members appointed by the mayor under this paragraph shall be designated by the mayor as his or her representative on the board. One public member shall be appointed by the president of the common council on the 3rd Tuesday in April for a 4-year term. The public member appointed by the president of the common council under this paragraph shall be designated by the president of the common council as his or her representative on the board.

(b) Upon their first appointment, the members shall be divided as nearly as practicable into 3 equal groups to serve for 2-, 3- and 4-year terms, respectively. Thereafter, each regular appointment shall be for a term of 3 years. Vacancies shall be filled for unexpired terms in the same manner as regular appointments are made.

(c) The appointing authority shall appoint as one of the members a school district administrator, or the administrator's representative, to represent the public school district or districts in which the public library is located. Not more than one member of the municipal governing body shall at any one time be a member of the library board.

(d) No compensation shall be paid to the members of a library board for their services, except as follows:

1. Members may be reimbursed for their actual and necessary expenses incurred in performing duties outside the municipality if so authorized by the library board.

2. Members may receive per diem, mileage and other necessary expenses incurred in performing their duties if so authorized by the library board and the municipal governing body.

(e) A majority of the membership of a library board constitutes a quorum, but any such board may, by regulation, provide that 3 or more members thereof shall constitute a quorum. For library boards organized under par. (am), 7 members constitute a quorum.

(1m) (a) Boards appointed for joint libraries under s. 43.53 shall:

1. Consist of 7 to 11 members and be representative of the populations of the participating municipalities.

2. Be appointed by the head of the municipal governing body of each participating municipality and county board chairperson of the participating county.

(b) Subsections (1) (b) to (e) and (2) apply to joint library boards.

(2) As soon as practicable after the first appointments, at a date and place fixed by the appointing officer, and annually thereafter within 30 days after the time designated in this section for the beginning of terms, the members of the library board shall organize by the election, from among their number, of a president and such other officers as they deem necessary.

(3) In any city of the 2nd or 3rd class, the common council may, by a two-thirds vote, provide for the reduction of the number of appointive members of the library board to 7. Thereupon, whenever a term expires or a vacancy occurs, no appointment shall be made until the number of such members has been so reduced, whereupon the remaining members shall be by lot divided by the common council into 3 classes, 3 to serve for 3 years, 2 to serve for 2 years and 2 to serve for one year, respectively, from the date of such completed reduction, and thereafter each regular appointment shall be for a term of 3 years.

The draft copy of The Public Library in Eau Claire, Wisconsin: A History, by Katherine Sullivan says the following:

"Seventeen days later, in the evening of Saturday, June 19, 1875, the library board appointed by Mayor George A. Buffington held its first meeting. members included H.C. Howland as president. J.F. Dudley as vice president, and Francis William Woodward, as a businessman with ties to the lumber industry who also established the city's first bank, as secretary."

**PLAN COMMISSION**  
**(Authorized by State Statutes, Chapter 62.23(1)(a)(d);**  
**Created by City Ordinance in 1957; Chapter 2.56)**

**MEMBERSHIP:**

The Plan Commission consists of 9 members:

- 2 City Council members
- 7 citizens

Citizen members shall be persons of recognized experience and qualifications.

**APPOINTED BY:**

The City Council.

**TERM:**

Three years.

**MEETINGS:**

The Plan Commission meets the 1st and 3rd Monday of the month at 7:00 p.m.

**DUTIES:**

It is the function and duty of the Commission to make and adopt a master plan for the physical development of the municipality, including any areas outside of its boundaries, which, in the Commission's judgment, bear relation to the development of the municipality.

The Commission may make reports and recommendations relating to the plan and development of the city to public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens. The Plan Commission may recommend to the City Council programs for public improvements, as contained in the Capital Improvement Plan, and the financing thereof. The Plan Commission exercises final review and approval of site development plans and requests for conditional use permits.

The City Council, or other public body or officer of the City having final authority thereon, shall refer to the City Plan Commission for its consideration and report before final action is taken by the City Council, public body or officer, in regard to the following matters: the location and architectural design of any public building; the location of any statue or other memorial; the location acceptance, extension, alteration, vacation, abandonment, change of use, sale acquisition of land for or lease of land for any street, alley or other public way, park playground, airport, area for parking vehicles, or other memorial or public grounds, the location, extension, abandonment or authorization for any public utility whether publicly or privately owned; all plats of lands in the city or within the territory over which the City is given jurisdiction by Ch. 236; the location, character and extent or acquisition, leasing or sale of lands for public or semipublic housing, slum clearance, relief or congestion, or vacation camps for children; and the amendment or repeal of any ordinance pursuant to this section.

## STATE STATUTES

*UNOFFICIAL TEXT*

Chapter 62

Subch. I of Ch. 62

62.23

62.23

### **62.23 City planning.**

62.23(1)

#### **(1) Commission.**

62.23(1)(a)

(a) The council of any city may by ordinance create a "City Plan Commission," to consist of 7 members. The commission shall also include, as a nonvoting member, a representative from a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in the city, if the base's or installation's commanding officer appoints such a representative. All members of the commission, other than the representative appointed by the commanding officer of a military base or installation, shall be appointed by the mayor, who shall also choose the presiding officer. The mayor may appoint himself or herself to the commission and may appoint other city elected or appointed officials, except that the commission shall always have at least 3 citizen members who are not city officials. Citizen members shall be persons of recognized experience and qualifications. The council may by ordinance provide that the membership of the commission shall be as provided thereunder.

62.23(1)(d)

(d) The members of the commission shall be appointed to hold office for a period of 3 years. Appointments shall be made by the mayor during the month of April for terms that expire in April or at any other time if a vacancy occurs during the middle of a term.

CITY ORDINANCE No. 2650

October 11, 1957

**1.21 CITY PLAN COMMISSION**

**A. Creation.** A city plan commission for the City of Eau Claire is hereby created.

**B. Composition.**

1. The city plan commission shall consist of the City Manager, who shall be its presiding officer, the chief engineer of the City, namely the Director of Public Works and Utilities, a member of the City Council, and four citizens. Citizen members shall be persons of recognized experience and qualifications.

2. The Council member of the commission shall be elected by a two-thirds vote of the Common Council, upon the creation of the commission, and during each April thereafter.

3. Three citizen members shall be appointed by the City Manager upon the creation of the commission to hold office for a period ending, one, two and three years, respectively, from the succeeding first day of May, and thereafter annually during April one such member shall be appointed for a term of three years.

4. The fourth citizen member shall be appointed by the City Manager to hold office for a period ending one year from the succeeding first day of May, and thereafter annually during the month of April. Should a park board be created at any time, the president of such board shall succeed to the fourth citizen member's place on the plan commission when the term of the fourth citizen member expires.

**C. Filling of Vacancies.** Vacancies other than ex-officio shall

be filled by appointment for the residue of the unexpired term in the same manner as appointment for the full term.

**D. Compensation—Oath.** No compensation shall be paid for service on the commission. Citizen members shall take the official oath required by Section 19.01 of the Statutes, which shall be filed with the City Clerk.

**E. Powers and Duties.** The plan commission shall have the powers and duties prescribed in Section 62.23 of the Statutes and all legislative enactments, amendatory thereof or supplementary thereto, and such other powers and duties as shall be vested in them from time to time by law or the Common Council.

**F. Organization.** As soon as all members of the first commission shall have been appointed the City Clerk shall give each member a written notice of the appointment, and thereon shall fix the time and place of the first meeting which shall be no less than five nor more than ten days thereafter. Said commission shall elect a vice-chairman, and a secretary, and shall keep a written record of its proceedings to include all actions taken, a copy of which shall be filed with the City Clerk. The records of the commission shall be public records. Four members shall constitute a quorum, but all actions shall require the affirmative approval of a majority of the members.

**G. Additional Powers.** The plan commission shall have power to employ experts and such staff as may be necessary, and to pay for their services and such other expenses as may be necessary and proper, within the limits of the budget established by the common council, or placed at its disposal through gift, and subject to any ordinance or resolution enacted by the common council. As far as possible the commission shall utilize the services of existing City officials and employees.

**H. Rules of Procedure.** The plan commission is hereby authorized to adopt rules governing its own proceedings.

(Ord. No. 2650, Published Oct. 11, 1957)

## Chapter 2.56

### PLAN COMMISSION

#### Sections:

- 2.56.010 Commission created.
- 2.56.020 Composition.
- 2.56.025 Chairperson--Election.
- 2.56.030 Members--Appointments.
- 2.56.040 Filling of vacancies.
- 2.56.050 Compensation--Oath.
- 2.56.060 Powers and duties.
- 2.56.070 Organization.
- 2.56.080 Experts--Temporary staff.
- 2.56.090 Rules adoption.

2.56.010 Commission created. A city plan commission for the city of Eau Claire is created. (Prior code §1.21A).

2.56.020 Composition. The city plan commission shall consist of two members of the city council and seven citizens. Citizen members shall be persons of recognized experience and qualifications. (Charter Ord. 5370 §2, 1993; Charter Ord. 4708 §2, 1987; Prior code §1.21B 1).

2.56.025 Chairperson--Election. At the opening of the first meeting in May, the plan commission shall elect from its membership a chairperson and a vice-chairperson. (Charter Ord. 5370 §3, 1993; Charter Ord. 4708 §3, 1987).

2.56.030 Members--Appointments. A. The council members of the commission shall be elected by a two-thirds vote of the common council during each April for a term of office commencing on May 1 to coincide with the term of office on the city council, but not to exceed one year.

B. Three citizen members shall be recommended by the advisory committee on appointments and confirmed by the city council upon the creation of the commission to hold office for a period ending one, two and three years, respectively, from the succeeding first day of May, and thereafter annually during April one such member shall be appointed for a term of three years.

C. Four additional citizen members shall be recommended by the advisory committee on appointments and confirmed by the city council to hold office for a period ending one year from the succeeding first day of May, and thereafter annually during the month of April. Should a park board be created at any time, or a city engineer appointed, the president of such board or such engineer shall succeed to a place on the commission when the term of one of the citizen members, designated by the city council, expires. (Charter Ord. 6935, 2010; Charter Ord. 5370 §4, 1993; Prior code §1.21 B 2, 3, 4).

2.56.040 Filling of vacancies. Vacancies other than ex officio shall be filled by appointment for the residue of the unexpired term in the same manner as appointment for the full term. (Prior code §1.21 C).

2.56.050 Compensation--Oath. No compensation shall be paid for service on the commission, except that citizen members of the commission may be reimbursed for their actual and necessary expenses incurred in the performance of their duties, if the same is approved by the city council. Citizen members shall take the official oath required by Section 19.01 of the statutes, which shall be filed with the city clerk. (Ord. 4130, 1980; Prior code §1.21 D).

ORDINANCE NO. 5370

CHARTER ORDINANCE

A CHARTER ORDINANCE ENACTED PURSUANT TO THE PROVISIONS OF S. 66.01, WISCONSIN STATUTES, ELECTING NOT TO BE GOVERNED BY THAT PORTION OF S. 62.23(1), WISCONSIN STATUTES, AS AFFECTED BY S. 64.11(1), WISCONSIN STATUTES, PROVIDING THAT THE CITY MANAGER SHALL BE A MEMBER OF THE PLAN COMMISSION, AND THE PRESIDING OFFICER THEREOF, AMENDING SS. 2.56.020, 2.56.025 AND 2.56.030, EAU CLAIRE ORDINANCES, TO REPEAL THE PROVISION MAKING THE CITY MANAGER A MEMBER OF THE PLAN COMMISSION, AND TO CREATE ONE ADDITIONAL CITIZEN POSITION ON THE PLAN COMMISSION.

THE CITY COUNCIL OF THE CITY OF EAU CLAIRE DO ORDAIN AS FOLLOW:

Section 1. That, pursuant to the provisions of s. 66.01(2), (4) and (5), Wisconsin Statutes, the City of Eau Claire hereby elects not to be governed by those portions of s. 62.23(1), Wisconsin Statutes, as affected by s. 64.11(1), Wisconsin Statutes, providing that the City Manager shall be a member of the Plan Commission, which are in conflict with this Charter Ordinance, and that Sections 2.56.020, 2.56.025 and 2.56.030 be amended as follows.

Section 2. That s. 2.56.020 of the Code of Ordinances of the City of Eau Claire, entitled "Composition", is hereby amended to read as follows:

2.56.020 Composition. The city plan commission shall consist of ~~the city manager,~~ two members of the city council, and ~~six~~ ~~seven~~ citizens. Citizen members shall be persons of recognized experience and qualifications.

Section 3. That s. 2.56.025 of the Code of Ordinances of the City of Eau Claire, entitled "Chairperson--Election", is hereby amended to read as follows:

2.56.025 Chairperson--Election. At the opening of the first meeting in May, the plan commission shall elect from its membership a chairperson and a vice-chairperson. ~~The city manager shall not hold either position.~~

Section 4. That s. 2.56.030 of the Code of Ordinances of the City of Eau Claire, entitled "Members--Appointments", and particularly subs. A. and C. thereof, is amended to read as follows:

A. The council member ~~members~~ of the commission shall be elected by a two-thirds vote of the common council, ~~upon the creation of the commission, and during each April for a term of office commencing on May 1st and ending on April 30th of the following year, but not to exceed one year thereafter.~~

C. ~~The fourth~~ ~~four~~ citizen member ~~members~~ shall be appointed by the city manager to hold office for a period ending one year from the succeeding first day of May, and thereafter annually during the month of April. Should a park board be created at any time,

~~or a city engineer appointed, the president of such board or such engineer shall succeed to a place on the commission when the term of the fourth one of the city engineer designated by the city manager expires.~~

Section 5. That any charter provision or previously enacted Ordinance or Charter Ordinance inconsistent or in conflict with this Charter Ordinance is hereby expressly repealed.

Section 6. That this Charter Ordinance shall take effect 60 days after its passage and publication subject to the provisions of s. 66.01, Wisconsin Statutes.

(SEAL) Mark D. Lewis  
President

(SEAL) Don T. Norrell  
City Manager

(ATTESTED) Carol Schumacher  
City Clerk

( First Reading November 23, 1993

Final Reading December 14, 1993

Adopted December 14, 1993

Published December 19, 1993

\*\*\*\*\*

Motion to adopt the ordinance.

John W. Morris

Seconded by:

Larry L. Reit

\*\*\*\*\*

NOTE: Additions are indicated by ~~red line~~; deletions by ~~strikeout~~.  
Newly created or repealed and recreated sections appear without any markings.

**POLICE AND FIRE COMMISSION**  
**(Authorized by State Statute 62.13)**

**MEMBERSHIP:**

The Police and Fire Commission consists of 5 citizens. No more than 3 members of the Commission shall belong to the same political party. See note\*.

**APPOINTED BY:**

The City Council.

**TERM:**

Five years.

**MEETINGS:**

The Commission meets the 3rd Thursday bi-monthly at 4:00 p.m.

**DUTIES:**

The Commission appoints the Chief of Police and the Chief of the Fire Department. The chiefs appoint subordinates subject to the approval by the Commission. The Commission shall adopt, may repeal or modify rules calculated to secure the eligibility lists for the Police and Fire Departments. These rules shall provide for examination of physical and educational qualifications as the Commission shall determine, and for the classification of positions with special examinations for each class. The Commission shall print and distribute the rules and all changes in them. The Commission shall control examinations and may designate and change examiners, who may or may not be otherwise in official service of the City.

The Police and Fire Commission shall approve each fire fighter and police officer selected from an eligibility list. The Commission may also review citizen complaints, hear formal charges, and take disciplinary action against fire fighters and police officers. A subordinate suspended by the Chief may request a hearing before the Commission.

\* Note: The Police and Fire Commission has determined that an attorney who practices criminal law is ineligible for appointment because of a possible conflict of interest.

## STATE STATUTES

### **62.13 Police and fire departments.**

#### **63.13 (1)**

- (1) COMMISSIONERS.** Except as provided in subs. (2g), (2m), (2s), and (8)(b), each city shall have a board of police and fire commissioners consisting of 5 citizens, 3 of whom shall constitute a quorum. The mayor shall annually, between the last Monday of April and the first Monday of May, appoint in writing to be filed with the secretary of the board, one member for a term of 5 years. No appointment shall be made which will result in more than 3 members of the board belonging to the same political party. The board shall keep a record of its proceedings.

**PUTNAM PARK COMMISSION**  
**(Created by Agreement with UW-Board of Regents and City Council in 1957;**  
*Agreement Filed in Register of Deeds Office (Vol.443, p. 774) in 1976*  
**Defined in UWEC Faculty and Staff Handbook, page 29)**

**MEMBERSHIP:**

(The departments of Biology and Geography must be represented)

- 2 faculty members
- 2 students
- 5 members of the city community (including 2 Council members), appointed by the President of the City Council

Ex-officio:

Assistant Chancellor of Administrative Services  
Chair of the Physical Plant Planning Committee  
Faculty Emeritus (optional)

The Chair is designated by the Chancellor.

**APPOINTED BY:**

The City Council and the University of Wisconsin - Eau Claire.

**TERM:**

Three years.

**MEETINGS:**

Meetings are held at the call of the Chair and at such times as the Commission may determine.

**DUTIES:**

The Putnam Park Commission recommends policies regarding the utilization of Putnam Park.

**Putnam Park Commission**

- Function:** To recommend policies regarding the utilization of Putnam Park.
- Membership:** (The departments of Biology and Geography must be represented.)
1. Two faculty members.
  2. Two students.
  3. Five members of the city community, appointed by the President of the City Council.
  4. Ex officio:  
Vice Chancellor for Business and Student Services.  
Chair of the Physical Plant Planning Committee.  
Faculty Emeritus (optional).
- Chair:** Designated by Chancellor.
- Term:** Three years, rotating.

**REDEVELOPMENT AUTHORITY**  
**(Authorized under Wis. Stat. 66.1333;**  
**Created by City Council Resolution July 9, 1991)**

**MEMBERSHIP:**

...the mayor or other head of the city government shall, with the confirmation of four-fifths of the local legislative body, appoint 7 residents of the city as commissioners of the authority. No more than 2 of such commissioners may be officers of the city in which the authority is created. The powers of the authority shall be vested in the commissioners. In making appointments of commissioners, the appointing power shall give due consideration to the clearance or urban renewal program and shall, insofar as is possible, designate representatives from the general public, labor, industry, finance or business group, and civic organizations. Appointees shall have sufficient ability and experience in related fields, especially in the fields of finance and management, to assure efficiency in the redevelopment program, its planning and direction. One of such 7 commissioners shall be a member of the local legislative body. Commissioners shall receive their actual and necessary expenses, including local traveling expenses incurred in the discharge of their duties.

(b) The commissioners who are first appointed shall be designated by the appointing power to serve for the following terms: 2 for 1 year, 2 for 2 years, 1 for 3 years, 1 for 4 years, and 1 for 5 years, from the date of their appointment. Thereafter, the term of office shall be for 5 years. A commissioner shall hold his office until a successor has been appointed and qualified...

**APPOINTED BY:**

The City Council.

**TERM:**

Five years.

**MEETINGS:**

Meetings are usually held the third Wednesday of each month at 7:30 a.m.

**DUTIES:**

Wis. Stats. 66.431(3)(a)...created...for the purpose of carrying out blight elimination, slum clearance, and urban renewal programs and projects as set forth in this section, together with all powers necessary or incidental to effect adequate and comprehensive blight elimination, slum clearance and urban renewal programs and projects.

The City Council Member appointed to the Redevelopment Authority also serves on the City Council Economic Policy Advisory Committee.

(3) REDEVELOPMENT AUTHORITY. (a) 1. It is found and declared that a redevelopment authority, functioning within a city in which there exists blighted areas, constitutes a more effective and efficient means for preventing and eliminating blighted areas in the city and preventing the recurrence of blighted areas. Therefore, there is created in every city with a blighted area a redevelopment authority, to be known as the "redevelopment authority of the city of ....". An authority is created for the purpose of carrying out blight elimination, slum clearance, and urban renewal programs and projects as set forth in this section, together with all powers necessary or incidental to effect adequate and comprehensive blight elimination, slum clearance and urban renewal programs and projects.

2. An authority may transact business and exercise any of the powers granted to it in this section following the adoption by the local legislative body of a resolution declaring in substance that

there exists within the city a need for blight elimination, slum clearance and urban renewal programs and projects.

3. Upon the adoption of the resolution by the local legislative body by a two-thirds vote of its members present, a certified copy of the resolution shall be transmitted to the mayor or other head of the city government. Upon receiving the certified copy of the resolution, the mayor or other head of the city government shall, with the confirmation of four-fifths of the local legislative body, appoint 7 residents of the city as commissioners of the authority.

4. The powers of the authority are vested in the commissioners.

5. In making appointments of commissioners, the appointing power shall give due consideration to the general interest of the appointee in a redevelopment, slum clearance or urban renewal program and shall, insofar as is possible, designate representatives from the general public, labor, industry, finance or business group, and civic organizations. Appointees shall have sufficient ability and experience in related fields, especially in the fields of finance and management, to assure efficiency in the redevelopment program, its planning and direction. One of the 7 commissioners shall be a member of the local legislative body. No more than 2 of the commissioners may be officers of the city in which the authority is created.

6. Commissioners shall receive their actual and necessary expenses, including local traveling expenses incurred in the discharge of their duties.

(b) The commissioners who are first appointed shall be designated by the appointing power to serve for the following terms: 2 for one year, 2 for 2 years, one for 3 years, one for 4 years, and one for 5 years, from the date of their appointment. After the first appointments, the term of office is 5 years. A commissioner holds office until a successor is appointed and qualified. Removal of a commissioner is governed by s. 66.1201. Vacancies and new appointments are filled in the manner provided in par. (a).

91-318

RESOLUTION

A RESOLUTION ESTABLISHING A REDEVELOPMENT AUTHORITY IN THE CITY OF EAU CLAIRE.

Resolution offered by Council Member Lee.

WHEREAS, there exists substandard, deteriorating, deteriorated, unsanitary, slum, and blighted areas in the city, and

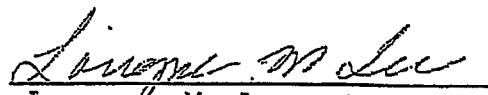
WHEREAS, the City Council hereby determines that a redevelopment authority, functioning within the city, would constitute a more effective and efficient means for preventing and eliminating slums and blighted areas in the city and preventing the recurrence thereof, and

WHEREAS, the City had appointed an ad hoc committee to study the need for redevelopment within the city and to make a recommendation to the City Council concerning the best method for administering development to achieve the aforesaid goals, and said committee has recommended that a redevelopment authority be established,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Eau Claire that the City Council does hereby declare that there exists within the city a need for blight elimination, slum clearance and urban renewal programs and projects, and

BE IT FURTHER RESOLVED that, pursuant to the provisions of Wis. Stats. s. 66.431, the City Council finds it necessary and there is hereby created in the City of Eau Claire a redevelopment authority, to be known as the "Redevelopment Authority of the City of Eau Claire" for the purpose of carrying out blight elimination, slum clearance, and urban renewal programs and projects, together with all powers which are necessary or incidental to effect such purposes, and

BE IT FURTHER RESOLVED that, upon adoption, the City Clerk is authorized and directed to transmit a certified copy of this resolution to the City Manager, pursuant to the provisions of Wis. Stats. s. 66.431(3).

  
Lorraine M. Lee

Adopted,

July 9, 1991

**REVOLVING LOAN FUND COMMITTEE**  
**(Authorized by Economic Development Administration to administer**  
**a \$400,000 grant received as a result of the Uniroyal-Goodrich Plant closing;**  
**Committee created by Council Resolution on July 9, 1991)**

**MEMBERSHIP:**

As specified by the Economic Development Administration, "The loan board should include members with business experience (representation of targeted industries and/or business sectors is desirable provided it will not cause a conflict of interest), members with financing experience, members from both the public and private sectors and minority members representative of the community. At least one member with financing experience (similar to the type of loans to be made under the RLF program) must be present for each loan decision."

**APPOINTED BY:**

The City Council.

**TERM:**

Three years.\*

**MEETINGS:**

As called by the Chair.

**DUTIES:**

As specified by the Economic Development Administration, the Revolving Loan Fund Committee is responsible for approving loans, all major loan modifications (or waivers), and loan foreclosure actions. It is also responsible for at least recommending Revolving Loan Fund loan policy (actual approval of loan policy may take place at a higher level).

*(While it is preferred that citizens of City of Eau Claire serve on the Committee, those not residing within the City limits, but who have a business address or other direct interest within the City of Eau Claire, may serve on this Committee.)*

- \* Terms were changed from two years to three years on July 9, 2013, and terms became staggered at that time.

RESOLUTION

A RESOLUTION CREATING A REVOLVING LOAN FUND COMMITTEE AND APPOINTING MEMBERS THERETO.

Resolution offered by Council Member Haywood.

WHEREAS, due to the imminent closure of the Uniroyal-Goodrich tire plant, the City of Eau Claire has received an Economic Development Administration Title IX Grant, and

WHEREAS, a Revolving Loan Fund has been established utilizing \$400,000 from said EDA Title IX Grant and \$200,000 in City of Eau Claire funds, and

WHEREAS, the City deems it necessary and desirable to appoint a Revolving Loan Fund Committee for review and advisory purposes,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Eau Claire that a Revolving Loan Fund Committee, acting as a loan administration board, is hereby created, for the purposes of reviewing the recommendations made by City staff on loan applications and to finally approve any such loans, and to make any policy changes to the Re-Use Plan as required and approved by the Economic Development Administration, and

BE IT FURTHER RESOLVED that the following individuals are hereby appointed to said Revolving Loan Fund Committee, to serve terms expiring on June 30, 1993:

Larry Bins - McDonough Manufacturing  
Margot Bouchard - Wisconsin Bell  
Jerry Chasteen - Western Wisconsin Regional  
Planning Commission  
Duane Dingmann - Trubilt Auto Body  
Coby Kohn - Virchow and Krause  
Chou Lee - Hmong Mutual Association  
Ray Nicholls - Eau Claire City Council  
Dan Shea - URW Local 19  
Lisa Stark - Misfeldt, Stark, Richie and Wickstrom  
Jim Vance - University of Wisconsin-EC  
Jim Vaudreuil - Huebsch Linen

BE IT FURTHER RESOLVED that any vacancy occurring on said committee shall be filled, for the remainder of the unexpired term, in the same manner as the initial appointment.

Janis Haywood

Adopted,

July 9, 1991

**SENIOR CENTER BOARD**  
**(Agreement with Eau Claire County;**  
**Adopted by Council Resolution on June 27, 1989)**

**MEMBERSHIP:**

There shall be a nine-person Board of Directors for oversight of the Senior Central facility, consisting of three members appointed by the County, two members appointed by the City, two members appointed by Senior Central, one from AARP to be appointed by the City and one citizen from another senior citizen organization to be appointed by the County.

**APPOINTED BY:**

The City Council, County Board, AARP and Senior Central.

**TERM:**

Two years.

**MEETINGS:**

Meetings are held monthly. Times and dates are set by the Board.

**DUTIES:**

- To oversee the Senior Central facility.
- To create standing and special committees.
- To transact necessary business in the intervals between organization meetings and such other business as may be referred to it by the organization.
- To present a report at the regular meetings of the organization.
- To approve other than routine budget items.
- To select an auditor to audit the organization's financial records.
- To prepare a financial plan for L. E. Phillips Senior Central, Inc. with the help of Senior Central Coordinator to be submitted to the necessary agencies.

RESOLUTION

Resolution offered by Council Member Sonderegger.

BE IT RESOLVED by the City Council of the City of Eau Claire: That the City Council hereby approves the agreement with Eau Claire County and Senior Central, in substantially the form as attached hereto and made a part hereof by reference, subject to the condition that the County agree that section 7.B. provides that the fiscal year appropriation for 1989 of \$20,900 will become the base year appropriation for each year of the contract, and all referenced adjustments in the CPI and county funding formula, as outlined in section 7.B., will be made against this base, and

BE IT FURTHER RESOLVED that the City Manager and City Clerk be and are hereby authorized to execute such agreement on behalf of the City of Eau Claire.

Betty Sonderegger

Adopted,

June 27, 1989

SENIOR CENTRAL FACILITY  
AND  
COORDINATOR POSITION AGREEMENT

Eau Claire County, 'County', a quasi-municipal corporation, City of Eau Claire, 'City', a municipal corporation and L. E. Phillips Senior Central, Inc., 'Senior Central', a non-profit corporation agree as follows:

2. Authority. This Agreement is authorized pursuant to Sections 59.07(11), 59.07(93), 62.04 and 66.30, Wis. Stats.

4. Board of Directors. There shall be a nine (9) person Board of Directors established for oversight of the Senior Central facility, consisting of three (3) members appointed by the County, two (2) members appointed by the City, two (2) members appointed by Senior Central, one (1) from AARP to be appointed by the City and one (1) citizen from another senior citizen organization to be appointed by the County.

**SEVEN MILE CREEK LANDFILL  
STANDING COMMITTEE  
(Committee Created as Part of Agreement with  
Veolia (Onyx), City of Eau Claire, Town of Seymour and Eau Claire County  
Adopted by Council Resolution 2004)**

**MEMBERSHIP:**

City of Eau Claire (two members)

- Director of Public Works or designee
- City Council representative or City resident appointed by City Council

Eau Claire City/County Health Department (one member)

- Director or designee

Eau Claire County (two members)

- County Highway Commissioner or designee
- County Board member or County resident appointed by County Board

Town of Seymour (two members)

- Town Chairman or designee
- Town Board member or Town resident appointed by Town Board

**TERM:**

One-year term for Eau Claire City Council representative. The Council representative will be appointed each year at the City Council Organizational Meeting.

**MEETINGS:**

To be determined.

**DUTIES:**

The affected municipalities and Seven Mile Creek Landfill, LLC, agree to re-establish and continue to participate in the Standing Committee to monitor the construction and operation of the Solid Waste Facility and perform such other activities as are authorized by the Agreement.

**FINAL  
DRAFT**

**ONYX SEVEN MILE CREEK LANDFILL EXPANSION  
FINAL NEGOTIATED AGREEMENT**

**OPERATOR:**

**ONYX SEVEN MILE CREEK LANDFILL, LLC.  
A SUBSIDIARY OF ONYX WASTE SERVICES, INC.**

**AND**

**AFFECTED MUNICIPALITIES:**

**CITY OF EAU CLAIRE  
TOWN OF SEYMOUR  
EAU CLAIRE COUNTY**

**Mr. Stephen C. Nick  
City Attorney for City of Eau Claire  
203 S. Farwell St.  
P.O. Box 5148  
Eau Claire, WI 54702-5148  
Phone: 715-839-6006  
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22 East Mifflin Street, Suite 800  
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**Mr. Mark W. Vinall  
Landfill Manager  
Onyx Seven Mile Creek Landfill, LLC  
8001 Olson Drive  
Eau Claire, WI 54703  
Phone: 715-830-0284  
Fax: 715-830-0285**

**Timm P. Speerschneider  
Attorney for Onyx 7-Mile Creek Landfill, LLC  
DeWitt Ross & Stevens, S.C.  
2 East Mifflin Street, Suite 600  
Madison, WI 53703-2865  
Phone: 608-255-8891  
Fax: 608-282-9243  
Email: [tps@dewittross.com](mailto:tps@dewittross.com)**

November, 24 2004

**ONYX SEVEN MILE CREEK LANDFILL  
STANDING COMMITTEE**

**22. Standing Committee.**

The Operator and the Local Committee hereby agree to the formation of a Standing Committee ("Committee") which shall consist of two residents of the Township representing the Town, two residents of the City representing the City, two residents from Eau Claire County, and the Director of the City/County Health Department or his designee. Additionally, the Operator may appoint one (1) non-voting, ad hoc member. The Standing Committee shall have the functions and powers described in Exhibit D and elsewhere in this Agreement. During the Initial Term, the Operator shall pay to the Standing Committee the amount of \$1,000 per year to cover expenses of administering the Standing Committee. Such payments shall be paid to the OSMCL Trust Fund, and shall be paid by no later than December 15<sup>th</sup> of the preceding year.

**SPECIAL ASSESSMENT DEFERMENT COMMITTEE**  
**(Created by City Ordinance 3.16.030[E])**

**MEMBERSHIP:**

This Committee shall be comprised of three members. The Committee shall be assisted by the Director of Finance and the City Attorney as required.

**APPOINTED BY:**

The City Council.

**TERM:**

Three years.

**MEETINGS:**

The Committee meets on the call of the Chair.

**DUTIES:**

The Committee will consider applications for deferment of the payment of special assessments and, after their consideration, will make its recommendation to the City Council.

**3.16.030 Special assessments--City assumption.** A. Purpose. The city council acknowledges that the levy of special assessments can result in extreme financial hardship in some instances. It therefore enacts this provision in order to provide necessary relief to persons affected by such a levy. It is the intent and purpose of the city council to alleviate the burden of such levies in cases where the loss of the homestead is a reasonable probability, while preserving the right for the ultimate collection of special assessments involved.

E. Committee created. A special assessment review committee is hereby created. The committee shall be comprised of 3 members, appointed by the city manager and confirmed by the city council. The term of office of all members shall be 3 years. The committee shall be assisted by the comptroller and other city staff, as required, in its deliberations.

1. The application shall be reviewed and evaluated by city staff and shall be forwarded to the special assessment review committee for its review.

2. The committee may require that an applicant appear before it to answer questions of the committee regarding the application.

3. The committee may seek further information from the applicant if the committee deems it necessary.

The committee shall consider the net worth, family status, amount of proposed special assessments, and all other factors relating to a determination if the applicant is an indigent person. The committee shall thereafter make its recommendation on the application to the city council. The city council shall make the final determination as to the granting of the application.

**TRANSIT COMMISSION**  
**(Created by Ordinance - Chapter 2.60.010, 2.60.020 and 2.60.030))**

**MEMBERSHIP:**

This Commission consists of nine (9) members. Eight (8) will be recommended by the Advisory Committee on Appointments, of which one will be a university student, and one will be a resident of the City of Altoona, recommended by the City of Altoona, and one will be a member of the Eau Claire City Council.

**APPOINTED BY:**

The City Council.

**TERM:**

Citizen members are appointed for three-year terms, except for the university student, who is appointed to a one-year term. The Council representative is appointed at the annual City Council Organizational Meeting for a one-year term.

**MEETINGS:**

The Transit Commission meets the 3<sup>rd</sup> Wednesday of each month at 6 p.m. Special meetings of the Commission may be called as needed.

**DUTIES:**

The Transit Commission duties are as follows:

1. Determine and adjust routes as needed and make recommendations to City Council on major route changes with budget implications.
2. Recommend fare changes to City Council.
3. Act as an advocate in the community for transit services.
4. Review and advise the City Council on transit budget recommendations.
5. Monitor ridership, services, and budget, and engage in strategic transit planning.
6. Periodically review the list of service complaints received by the transit department.
7. Review the Transit Development Plan and recommend additions and/or revisions.
8. Advance recommendations regarding other modes of public transportation, which include, but are not limited to, light rail, taxis, park and ride facilities and ride-sharing.
9. Review and make recommendations about parking issues that significantly impact transit services and routes.

## Chapter 2.60

### TRANSIT COMMISSION

#### Sections:

**2.60.010 Commission created.**

**2.60.020 Membership--Terms--Qualifications.**

**2.60.030 Powers and duties.**

**2.60.040 Meetings.**

**2.60.010 Commission created.** Pursuant to the provisions of Wisconsin Statutes Section 66.1021 (1) a transit commission, to be known as the "Eau Claire transit commission", is created for the establishment, maintenance and operation of a comprehensive unified local transportation system, as defined by Wisconsin Statutes Section 66.1021 (3)(a), for the service of the citizens of Eau Claire. (Ord. 3402 §I, 1973; Prior code §1.27(1)).

**2.60.020 Membership--Terms--Qualifications.** The transit commission shall consist of seven members, six shall be recommended by the advisory committee on appointments and confirmed by the city council, and one which shall be a member of the city council. The commissioners shall elect a chairperson, vice-chairperson and secretary. Except for the city council member, the term of office of each member shall be three years. The term of office of the city council member shall be one year, commencing on the third Tuesday in April. No person holding stocks or bonds in any corporation subject to the jurisdiction of the transit commission or who is in any other manner directly or indirectly pecuniarily interested in any other corporation, shall be a member of, or employed by, the transit commission. (Charter Ord. 6935, 2010; Charter Ord. 6043 §2, 2000; Charter Ord. 4813 §2, 1988; Ord. 3402 §I, 1973; Prior code §1.27 (2)).

**2.60.030 Powers and duties.** The transit commission shall have such powers and duties as provided by Wisconsin Statutes Section 66.1021 and any other provisions of the Wisconsin Statutes relating thereto. (Ord. 3402 §I, 1973; Prior code §1.27(3)).

**2.60.040 Meetings.** The transit commission shall hold regular meetings as may be provided by its by-laws and may hold special meetings on the call of the chairperson, by any three commissioners, or at the request of the city council. (Charter Ord. 6043 §3, 2000; Ord. 3402 §I, 1973; Prior code §1.27 (4)).

**UTILITY APPEALS BOARD**  
**(Code of Ordinances 2.50)**

**MEMBERSHIP:**

The Board consists of five members:

- 2 citizens
- Public Works Director
- Finance Director
- City Council member

The Utilities Accountant acts as Secretary to the Board.

**APPOINTED BY:**

The City Council.

**TERM:**

Three years.

**MEETINGS:**

Meetings are held at the call of the Chair and such other times as the Board may determine. (The schedule has been set for January, April, July and October - the first Thursday of the month at 10:00 a.m.)

**DUTIES:**

The Board shall act on specific appeals and applications only, except in exercising its power of interpretation. Such action shall not change or have the effect of changing any rule, regulation, provision or restriction of state statute, public service commission rates and rules, or titles 14 and 15 of these ordinances, but shall affect only its application to specific cases before the Board. In exercising its power of interpretation, the Board may act upon application, upon written request from the City Council, or upon its own motion.

All determinations of the Board shall be final.

**Chapter 2.50**

**UTILITY APPEALS BOARD**

**Sections:**

- 2.50.010 Establishment.**
- 2.50.020 Membership--Organization.**
- 2.50.030 Authority.**
- 2.50.040 Interpretation of provisions.**
- 2.50.050 Board decisions.**

**2.50.010 Establishment.** There is established a utility appeals board responsible for hearing appeals from persons who make and file applications with the utility alleging that a specified premises comes within the provisions of title 14, chapters 14.12, 14.16, 14.20 and title 15, chapter 15.04. (Ord. 4673 §3, 1986).

**2.50.020 Membership--Organization.** A. The board shall consist of 5 members, 2 of which shall serve a 3-year term, appointed by the city manager and confirmed by the city council. The remaining members shall consist of the director of public works, director of finance and a council member. The council member shall be appointed by the city council and serve a term coinciding with the council member's term of office.

B. All meetings, transactions and records of action of the board shall be open to the public; provided that, in consideration of a case before it, the board may go into closed session for the purpose of discussion, as permitted by law.

C. The board shall adopt rules and regulations for the transaction of business. Meetings shall be held at the call of the chairman and at such other times as the board may determine. The utilities accountant shall act as secretary for the board. (Ord. 4673 §3, 1986).

**VISIT EAU CLAIRE BOARD**  
**(formerly) CHIPPEWA VALLEY CONVENTION AND VISITORS BUREAU BOARD**  
**(Membership on the Board Specified in the Convention Bureau By-Laws;**  
**Council Members Appointed Annually by Resolution)**

**MEMBERSHIP:**

The Board of Directors of this Corporation shall consist of the following:

- 3 Hotel/Motel
- 2 City of Eau Claire
- 4 Hospitality
- 1 Education
- 1 Media
- 1 Industry
- 1 Menomonie Tourism Commission
- Regional Elected Officials (Altoona, Chippewa Falls, Menomonie, Union, Wheaton)

Terms of office would be two years with a three-term maximum.

**APPOINTED BY:**

Visit Eau Claire.

**TERM:**

Two years.

**MEETINGS:**

Regular meetings are held bi-monthly on the fourth Thursday at 3 p.m. Special meetings of the Board of Directors may be called by the President or the Executive Director with 24 hours notice to all Board members.

**DUTIES:**

The purpose of this corporation is to promote tourism, conventions, and similar activities for the Chippewa Valley.

**BY LAWS OF**  
**CHIPPEWA VALLEY CONVENTION & VISITORS BUREAU, INC.**

**ARTICLE IV**

**BOARD OF DIRECTORS**

**SECTION 1. BOARD OF DIRECTORS.** The Board of Directors of this corporation shall consist of at least one representative from each of the following categories, but shall not exceed the designated number of representatives. Furthermore, the Board of Directors of this corporation shall not have fewer than 13 Directors at one given time.

- 3 - Hotel/Motel
- 2 - City of Eau Claire
- 4 - Hospitality
- 1 - Education
- 2 - Citizens at Large
- 1 - Media
- 1 - Industry
- 1 - Menomonie Tourism Commission
- 5 - Regional Elected Officials (Altoona, Chippewa Falls, Menomonie, Union, Wheaton)

The two city representatives shall consist of two existing city council members or one city council member and the city manager or his/her designee. Terms of office shall be three years with a two-term maximum.

**WATERWAYS AND PARKS COMMISSION**  
**(Created by City Ordinance; Chapter 2.64)**

**MEMBERSHIP:**

The Commission shall consist of 12 members:

- 10 members recommended by the City Council Advisory Committee on Appointments, confirmed by the City Council
- 2 City Council members
- Parks and Recreation Director, Community Development Director, and Public Works Director, or their designees, serve as ex-officio, non-voting members

The members of the Commission shall elect to serve a one-year term, a chairman, vice-chairman, secretary and other officers as may be necessary from among their membership at the first meeting of the Commission after all appointments have been made. Said officers shall thereafter be elected for a one-year term each year at the first meeting after new appointments to the Commission have been made.

**APPOINTED BY:**

The City Council.

**TERM:**

Three years.

**MEETINGS:**

The Commission shall hold regular meetings as may be provided by its by-laws, and may hold special meetings on the call of the Chair or at the request of the City Council. (The Committee usually meets the fourth Wednesday of each month at 7 p.m.)

A majority of the Commission shall constitute a quorum. The Commission shall adopt such by-laws as appropriate to further govern its proceedings.

**DUTIES:**

The Commission shall have the following duties and responsibilities:

- 1) Promote community awareness and education about the importance of Eau Claire's waterways and parks;
- 2) Advise the Plan Commission and City Council on appropriate zoning regulations for waterway-related development;

Waterways and Parks Commission  
(continued)

- 3) Initiate guidelines for waterway-related development;
- 4) Advise the Plan Commission and City Council on waterway and parkland policies to be incorporated into the City Comprehensive Plan;
- 5) Review and make formal recommendations prior to the Plan Commission, City Council or Zoning Board of Appeals review of all development proposals for property abutting the Chippewa River, Eau Claire River, Half Moon Lake, or such other waterways or water corridors as may be designated by the City Council. Such review shall be mandatory and shall include proposed public capital improvements that affect parks and waterways;
- 6) Initiate and coordinate fund raising and special events to support and publicize improvements for the waterways, waterway corridors, parks or related trail systems;
- 7) Advise the City Council on priorities for public water investment and economic revitalization along the waterways;
- 8) Promote, encourage and facilitate appropriate private investment and economic revitalization along the waterways;
- 9) Serve as a clearinghouse for information for agencies and groups having interests in the waterways;
- 10) Review and comment on matters pertaining to the development of city parks and recreation;
- 11) Advise the City Council on public safety and security policies and procedures in all public park and waterway areas.

## Chapter 2.64

### CITY WATERWAYS AND PARKS COMMISSION

#### Sections:

**2.64.010 Creation.**

**2.64.020 Purpose and intent.**

**2.64.030 Composition.**

**2.64.040 Procedure.**

**2.64.050 Duties and responsibilities.**

**2.64.060 Meetings.**

**2.64.010 Creation.** A waterways and parks commission for the city of Eau Claire is hereby created. (Ord. 4700, 1987; Ord. 3388 §I, 1973; Prior code §1.23 A).

**2.64.030 Composition.**

A. The waterways and parks commission shall consist of 12 members, 10 of which shall be recommended by the advisory committee on appointments and confirmed by the city council. The remaining two members shall be council members, each appointed by the city council to a term coinciding with his or her term of office.

B. The members of the commission shall elect to serve a 1-year term, a chairman, vice-chairman, secretary and other officers as may be necessary from among their membership at the first meeting of the commission after all appointments have been made. Said officers shall thereafter be elected for a 1-year term each year at the first meeting after new appointments to the commission have been made.

C. The directors of parks and recreation, planning and development and public works, or their designees, shall serve as ex-officio, non-voting members of the commission. (Charter Ord. 6935, 2010; Ord. 4700, 1987).

**ZONING BOARD OF APPEALS**  
**(Authorized by State Statutes 62.23(7)(e);**  
**Created by Ordinance, Chapter 18.55)**

**MEMBERSHIP:**

The Board of Appeals consists of five members. Two alternate members are appointed to sit in the absence of regular members.

**APPOINTED BY:**

The City Council.

**TERM:**

Three years.

**MEETINGS:**

Regular meetings of the Board are held on the first Tuesday of each month at 7:00 p.m. Special meetings may be called by the Chair or by two or more members.

**DUTIES:**

The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator. An appeal to the Board may be taken by any person aggrieved or by an officer, department, board or bureau of the city affected by any decision of the Zoning Administrator.

The Board is quasi-judicial in nature, meaning that the Board members sit as a panel of judges. The Board members are not legislators. The importance of that distinction is that they must decide cases fairly on the facts and determine whether the party requesting the variance has met his or her burden of proof. They should not entertain or be influenced by personal or political considerations. For this reason, it is inadvisable for members to serve on other City boards or commissions.

The Board shall decide on any matter within 30 days after date of hearing. After a decision is made, the Zoning Administrator will carry out the decision made by the Board.

**Chapter 18.55**

**BOARD OF APPEALS**

**Sections:**

- 18.55.010 Board of Appeals Created.**
- 18.55.020 Membership.**
- 18.55.030 Organization and Rules.**
- 18.55.040 Notice of Hearing.**
- 18.55.050 Powers.**
- 18.55.060 Board Decision - When Final.**
- 18.55.070 Court Review.**

**18.55.010 Board of Appeals Created.** A board of appeals is created under the provisions of Wisconsin Statutes 62.23(7)(e). (Ord. 5037, 1990).

**18.55.020 Membership.** A. The board shall consist of 5 members appointed by the city manager subject to confirmation by the council for terms of 3 years. The members of the board shall be removable by the council cause. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. Board members shall be limited to 2 three year terms, the calculation of which shall not include service performed in filling an unexpired term.

B. The city manager shall appoint, with confirmation from council, 2 alternate board members for a term of 3 years. Annually, the city manager shall designate one of the alternates as the first alternate, the other as the second alternate. The first alternate shall act, with full power, only when a member of the Board refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the Board so refuses or is absent. The provisions in subsection A. pertaining to removal and vacancies shall apply to each alternate. (Ord. 5037, 1990).

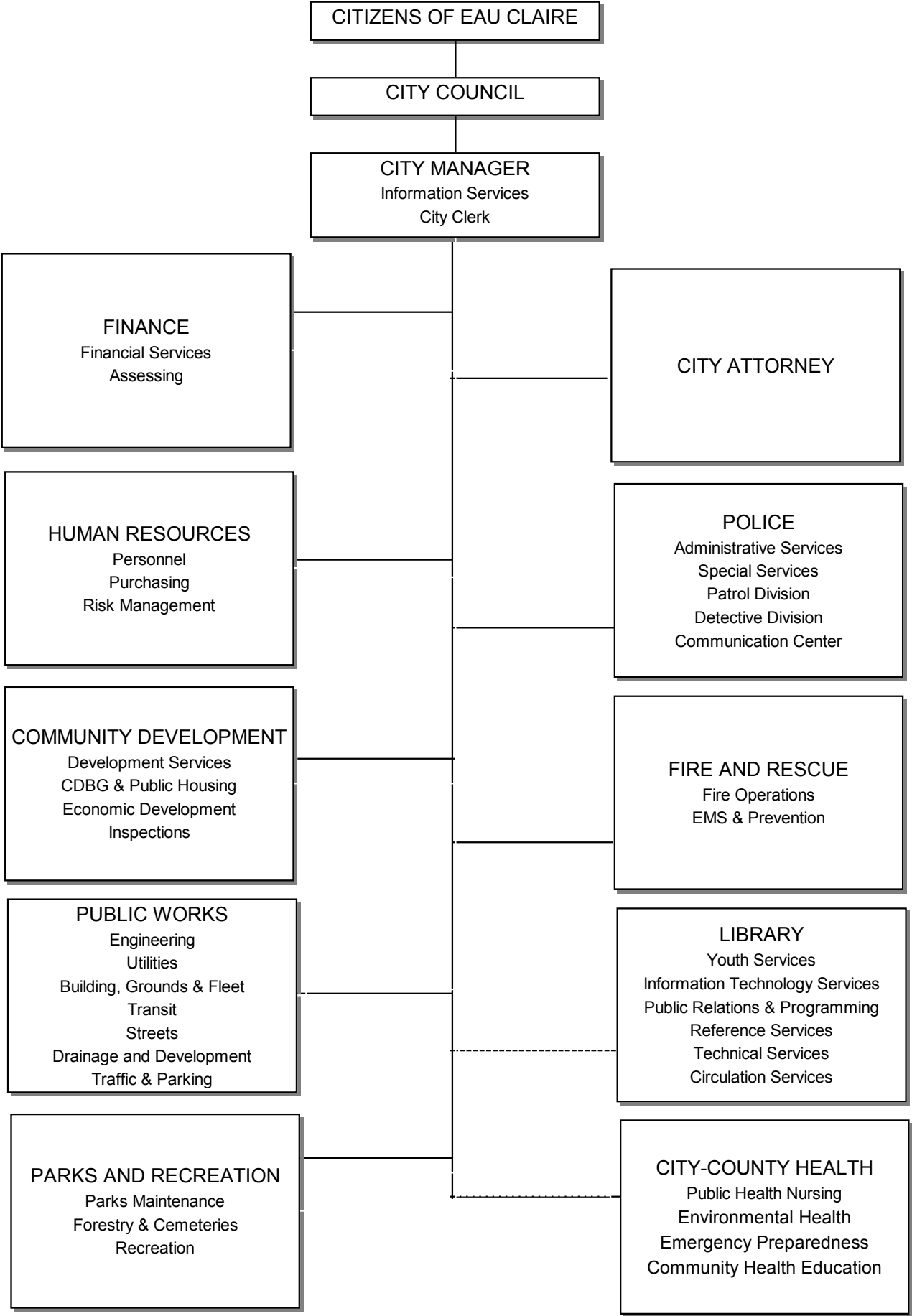


## Section 10

# City Organization

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Organizational Chart  
City of Eau Claire



## **Department Directors**

Stephen Nick	City Attorney
Darryl Tufte	Community Development Director
Jay Winzenz	Finance Director
Lyle Koerner	Fire Chief
Lieske Giese	Health Director
Dale Peters	Human Resources Director
John Stoneberg	Library Director
Phil Fieber	Parks & Recreation Director
Jerry Staniszewski	Police Chief
Phil Fiber	Public Works Director

## **LOCATION OF CITY BUILDINGS AND OFFICES**

City Hall	203 South Farwell Street
Police Department	740 Second Avenue
Central Maintenance Facility Building/Grounds Maintenance Street Maintenance/Utilities Parks Maintenance & Forestry	910 Forest Street
City/County Health Department	720 Second Avenue
Fairfax Outdoor Pool	4200 Fairfax Street
Fire Dept. Admin./Station #2	216 South Dewey Street
Station #5	2500 Patton Street
Station #6	3020 Golf Road
Station #8	3510 Starr Avenue
Station #9	3611 Campus Road
Station #10	559 North Hastings Way
L. E. Phillips Memorial Public Library	400 Eau Claire Street
Parks & Recreation Admin./Hobbs Ice Center	915 Menomonie Street
Wastewater Treatment Plant	1000 Ferry Street
Water Treatment Plant/Well Field	Riverview Drive